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SUPPLEMENT

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CSHB 15 DEBATE - SECOND READING

REPRESENTATIVE S. MILLER: Mr. Speaker and members, this is the same bill we had yesterday. It has not changed, I have already laid it out. I am ready to get to work. So, at the will of the house, we will move right onto Amendment No. 1. Thank you.

REPRESENTATIVE FARRAR: I'm sorry we got interrupted yesterday, but there was still some questions that I had to ask of the intent of the bill. I understand that you were trying—what you're trying to achieve is informed consent and that was talked about many times, yesterday; and so, I'm just—I'm a bit concerned because in the language of the bill, it actually explicitly prohibits any discussion about abortion providers, so a woman—correct?

S. MILLER: I don't—I don't believe there's a prohibition on discussion of abortion providers. I'm not aware of that. Would you like to point that out to us, please?

FARRAR: Yeah, just a moment.

S. MILLER: Be kind of hard to prevent since you're at the abortion facility already. Do you have a page and line number?

FARRAR: Hold on, I'm looking for that.

S. MILLER: Okay. Take your time. We're in no rush.

FARRAR: Okay. Here it is, page 2, line 15. It says that "at no cost to the pregnant woman" and that do not a) perform abortions that provide abortion related services—

S. MILLER: Correct.

FARRAR:—b) "make referrals to any abortion provider," or c) "affiliate or contract with any entity that performs abortions, provides abortion related services, or makes referrals to any abortion provider." So that language is explicitly prohibited from being given to the woman. So, I was just wondering, if this was about informed consent, and we are saying that women can't have this information, at least not in the rest of the state-sponsored materials. How do you get to—it seems to me a half truth. So, how can you say then that it is indeed informed consent?

S. MILLER: The portion of the bill that you're citing there refers to the free sonograms. Specifically, it states that they must provide a list of places other than abortion centers that provide free sonograms. So, it's not talking about the

abortion, permitting the abortion, or having it done at the abortion center, and it's not a requirement that they go there. It's simply just a list of other providers, other than the abortion centers, and that is giving them more information than they have now. So, it is more information.

FARRAR: We are steering them, though, toward those free sonograms.

S. MILLER: Absolutely.

FARRAR: When sonograms are now—well they're cost prohibitive. And so, you're steering them to a free one. But, yet the free one can—let me finish. Can I finish, chairman?

S. MILLER: The cost of the sonogram.

FARRAR: Can I please finish?

S. MILLER: Did you not ask about the cost of the sonogram?

FARRAR: Yes, but can I finish my question, because it might enlighten you. So, we have, though, then, we're taking—we're taking women, we're steering them one direction, but in the direction we're steering them, they're basically—the information is being censored from them, and that's my concern.

S. MILLER: I wouldn't characterize it as that, as actually we're furnishing more information than is furnished now. That is a more informed consent. The cost of the sonogram runs from—$90 to $103 is the average cost.

FARRAR: But not if they have only been given a half-truth. So my concern is, it seems to me that the motive of the bill is something different, and we'll just disagree about it, but perhaps the motive of the bill is to get women to not have abortions. Is that safe to say?

S. MILLER: That would be fine with me. Sure.

FARRAR: But, I mean is that what—it seems that's the design of the bill.

S. MILLER: No, the design of the bill is to have a more informed consent. Right now the information is being withheld from the woman even though she is paying for it.

FARRAR: But it's not talking about—

S. MILLER: And not being able to see the test being run on her own body.

FARRAR: You're talking about informed consent though. You would give all the information and trust her to make the proper decision, correct? I mean, that is—we've been talking about a lot about constitutional rights and a constitutional, a woman has a Ninth Amendment constitutional right to privacy, we all do; and so, I don't understand why you wouldn't give her information about a right that she has—why we would actually censor it. I mean, it's in the language of the bill that it's censored.

S. MILLER: Okay.

FARRAR: So, do you agree with me on that on that point?

S. MILLER: No, I think any time you offer more information, it's more information. We're not withholding information, we're offering more information.

FARRAR: So, even a half-truth is more information, is what you're saying?

S. MILLER: That may be the way you characterize it, but we're offering her all the truths, all the available options, all the medical information, all of the choices, all of the providers that provide this information. In this particular section we are providing information for a free sonogram if she chooses. It's not mandatory, but if she chooses so, we will provide her that list. So, we're giving her more opportunity, not less.

FARRAR: Okay. So, you're saying, though, that half of the information is better than nothing?

S. MILLER: I think all the information is better than nothing, I think that's what it does.

FARRAR: Okay. So, would you take an amendment?

S. MILLER: Currently, you're not providing any information to other providers.

FARRAR: Will you accept an amendment then that would strike that language, that censoring language?

S. MILLER: No.

FARRAR: Because it would then be up to the free sonogram providers to decide what to do.

S. MILLER: You're welcome to offer that amendment—

FARRAR: Right now, you're tying their hands of being able to give information to women.

REPRESENTATIVE V. GONZALES: Chairman Miller, I just have a few questions and just to clarify what was described yesterday. Your bill does not make an exception for rape or incest; is that correct?

S. MILLER: There is a carve-out for any woman that wishes not to participate. She may choose not to view the sonogram, she may choose not to hear the heartbeat, she may choose not to hear the description, so there's a carve-out not only for that, but for any woman. This is made available if she so chooses.

V. GONZALES: Is that in the bill? I thought that while she could opt out of viewing the sonogram, if she had to, hear the verbal description and—

S. MILLER: If you'll—oh, I'm sorry, I didn't mean to interrupt. Go ahead.

V. GONZALES: I'm looking on, let's see, on page 3. It says that she shall—it shall "perform a live sonogram on the pregnant woman, display the live real-time sonogram images in the quality consistent with the medical practice, provide in the manner understandable to the layperson a verbal explanation, including a medical description of the dimensions of the embryo or fetus, the presence of cardiac activity, and the presence of lungs, make audible the live real-time

heartbeat." So, my understanding from your bill is that while she can opt out of viewing the sonogram, she still must listen to the heartbeat and to the description of the fetus; is that not correct?

S. MILLER: That is incorrect. I would refer you to page 6 of the bill, line 12, Section 171.055, the section titled "Receiving Information During the Sonogram." The physician and pregnant woman are not subject to a penalty under this chapter, solely—here's the keyword phrase—solely, because the woman chooses not to receive the information required under this section.

V. GONZALES: Okay. So, how is that—

S. MILLER: That explicitly says that she may choose not to receive the information, if she so chooses, there is no penalty for not receiving the information.

V. GONZALES: She would have to get the sonogram and she would be given then an option to either view it, hear the heartbeat, and get the description, or she could opt out of that altogether; is that right?

S. MILLER: She's going to receive the sonogram whether this bill passes or not. It's standard medical procedure prior to the abortion services. So, she's going to receive that. What this bill does is actually gives her an opportunity to view that. In the committee hearing, there was testimony from several women, not just one, that asked to view the sonogram and were denied access to that.

V. GONZALES: I understand that. I just want to get an idea of how it's going to work. Is the doctor going to say, "I'm performing this on you now and you have an option to view it if you want to, you have an option to hear the heartbeat if you want to, you have an option for me to tell you, give you a description if you want to." Is that how it's supposed to work?

S. MILLER: The—under the bill, and I can refer you to the section if you'd like, but basically it says that the doctor must provide the sonogram, a description of the sonogram, and the heartbeat; and in Section 171.055, it explicitly says, this woman may choose not to participate.

V. GONZALES: So, she'll be given the option, told if she does not have to, if she doesn't want to?

S. MILLER: I don't know if she'll be told, but she does have that option. The bill doesn't address whether to tell her or not.

V. GONZALES: Because, of course, they want people to have that option then and need to know of that option, correct?

S. MILLER: They do have that option under this bill.

V. GONZALES: All right. Now, what if, for instance—and that would apply even if, for instance, a woman was going in because her baby had died inside her and there had been a car accident or something had happened that caused her to have to go and have an abortion. It would not matter that she would still have to go in there and have the sonogram and then hear the same things we've been talking about; is that correct?

S. MILLER: Partly. The part about the fetal abnormality is covered under that section. The car wreck is actually covered under a different section described under "Medical Emergencies." Under the case of a medical emergency, none of this is required.

V. GONZALES: Okay. Now, let me ask you about it because yesterday I remember we were talking about cost and you had mentioned, well, there's no increased cost or there's no cost, but we have this 24-hour waiting period here. So, let's say we have a young girl, 16-year-old girl who has made this very, very difficult decision after consulting with her family and her clergyman and whoever else, but she's made the decision to do it. She now has to travel—let's say she lives in a part of Texas that this is not offered, she would have to travel, she would have to go to the clinics, she would have to have the sonogram, she's basically told go sleep on it now for 24 hours, and then she's got to go back again.

S. MILLER: That's correct.

V. GONZALES: So, we're talking about maybe overnight stays at a hotel, we're talking about travel cost. That is a cost that is incurred there by having a 24-hour waiting period, is it not?

S. MILLER: That is correct. You are correct. However, I would make this one caveat. There's no medical procedure that's performed in this state where you just walk in and immediately have the procedure. It's normal, best practices, under the patient-doctor relationship where once you are given a medical procedure, whether it be a EKG of your heart, or an MRI, or a CAT scan or x-ray, at that point, the doctor will sit down with you, the patient, you have a face-to-face with your doctor and they explain what is happening to your body, what your options are. If you choose a procedure, they will lay out how the procedure is done, what the recovery time is, what the therapy is. Under current procedure, that is not done. So we're not asking any more of this person than we would of any other patients.

V. GONZALES: But under current times—currently, a woman who chooses to have an abortion is not required to wait a 24-hour period, is she?

S. MILLER: She is required to wait the 24-hour period, currently. Under current law, the Woman's Right to Know Law requires a 24-period layout. This bill just follows that, but it's already required.

V. GONZALES: She's having to go back twice, in other words, now that she wouldn't have to be under current law, is that right?

S. MILLER: No. Current law requires, under the Woman's Right to Know, once she goes into the abortion facility, asks for the abortion, that she wait 24 hours. That is current law. This bill just mirrors that, basically.

V. GONZALES: This one requires basically two procedures that are done 24 hours apart. Is that—

S. MILLER: Right. You're correct. Once she goes to the sonogram—the clock doesn't start ticking until the sonogram is performed. You are correct on that point.

V. GONZALES: All right. I think the senate version did not have that, did it? Doesn't the senate version have, like, a two-hour waiting period?

S. MILLER: That's correct.

V. GONZALES: Okay. So, the senate version would not require necessarily an overnight stay, whereas, the house version does.

S. MILLER: Actually, they still have to comply with current law. Under current law, a Woman's Right to Know, it's a 24-hour layout. It doesn't—what my point is, the two hours, you are correct; but it doesn't negate the 24 hours Woman's Right to Know Law that we currently have.

V. GONZALES: Okay. Did—I was told this, and I don't know if you know or not, but that there were abortion providers in only 17 of the 254 Texas counties? Do you know—

S. MILLER: Well, I have a map of all of them. If you'd like, I can pull that up.

V. GONZALES: I'm just wondering, because on the issue of the travel and the issue of the cost—that was something that came up in research, and I just wondered if you knew.

S. MILLER: I'm sure it's more than that. I think I have a list. It may take me a little bit to find it.

V. GONZALES: And right now, the way it works, even though a doctor performs the sonogram as we talked about yesterday, I believe, he does it so he can determine at what period of gestation the pregnancy is and if there's any—anything he needs to—it's for his own purposes, for the doctor's purposes in determining what is medically necessary for the woman; is that right?

S. MILLER: Could you—I was looking for that information. I missed the first part of your question. Could you please repeat it?

V. GONZALES: Currently, when the—you mentioned that already sonograms were done; but currently, sonograms are done by the doctor so that the doctor can determine for himself at what stage the pregnancy is and he can determine what needs to be done, what is medically necessary for the woman. He doesn't share this information with her because it's not—it doesn't go to what's medically necessary. Is that the current procedure?

S. MILLER: Well, apparently not according to the testimony in committee. There was a former administrator of Planned Parenthood—testified that they hired high school students to perform the sonogram because it was much cheaper than hiring a licensed sonographer or a physician to do that; and it's obvious that they're not qualified to interpret that. This legislation requires that the sonogram be performed by a licensed sonographer by the national registry or a physician.

V. GONZALES: I understand that—

S. MILLER: Currently, there are no RNs, LVNs, or doctors. The common practice is to just have laypeople do that procedure.

V. GONZALES: But are you saying that that layperson does it and that no one reviews it to determine at what stage of the pregnancy the woman is in? I would imagine that maybe someone does it and somebody else reviews it. Just like when you go in and you have x-rays and you have someone else read them, you're—

S. MILLER: It's not—

V. GONZALES: You're not saying they're done by high school kids and just for the purpose of being done without anybody actually reading them; is that right?

S. MILLER: No, I'm not. Obviously, the doctor has a liability in this case and he's going to interpret that sonogram himself; but currently, there's no opportunity, there is no dialogue between the patient and the doctor, and that's what this bill intends to do is to create that dialogue so that the patient can actually sit down with their doctor, ask questions, have their procedure explained. Currently, the only time the patient sees the doctor during this abortion procedure is when she is on the operating table already sedated and the doctor will come in with a cap on his head and a mask across his face and the only thing exposed is his eyes and that's the only contact that she has with the doctor now; and this bill attempts to establish a doctor-patient relationship.

V. GONZALES: Well—and I understand there's disputes as to what the intent of the bill is; but as you mentioned yesterday, your hope is that it's going to limit the number of abortions that we have in the State of Texas; is that right?

S. MILLER: I—we don't have any actual figures or comparisons, but other states—the 21 other states that have introduced some form of sonogram legislation, they have seen a reduction in abortions in those states; which I hope both of us can agree, that's a good thing.

V. GONZALES: Well, of course. No one wants to see someone have to make that decision, and that is your intent, to limit the number of abortions in our state.

S. MILLER: This is an informed consent bill. We want to make sure that all women have all information made available to them. That's the purpose of the bill.

V. GONZALES: So that there would be fewer abortions in our state, right?

S. MILLER: Could you repeat that, please?

V. GONZALES: So that there would be fewer abortions in our state?

S. MILLER: Well, we'll see. We don't know.

V. GONZALES: Thank you.

REPRESENTATIVE MARTINEZ: I just have a couple of questions for you in regard to the exemption for medical emergencies.

S. MILLER: Sure.

MARTINEZ: You say that the physician would have to sign and place that information in the record. Who would have access to those records, if you don't mind me asking?

S. MILLER: Those records could be accessed in two ways: the medical board would access those records if there was a complaint filed against the doctor by a patient, and the other would be random audits done by DSHS, periodically. They normally have one audit per year and they would come in and audit facilities filed and that would need to be in there, obviously, to meet their audit requirements.

MARTINEZ: Now, this would also fall under the same criteria for HIPAA, am I correct? That they would have to follow the guidelines by HIPAA in order to access those records?

S. MILLER: You know, I'm not sure on that. Maybe I can get someone else—I'm not familiar with HIPAA. Maybe there's someone who could help us answer that.

MARTINEZ: Thank you; and I'm not—it is not a trick question by any means, Mr. Miller, it's mainly just saying that, under HIPAA regulations, the patients themselves would allow for access into their files or anybody trying to get their information. That's all it is, we deal with it in the medical community all the time. So, just as long as it falls under HIPAA and HIPAA regulations, that was my only concern. And the second was—under violation, if a physician violates any of this, they are completely stripped of their certification or their right to practice; and to me, I have a bit of a problem with that, mainly because it is not a form of malpractice that physician is doing, it's just a form of him not following what is in the statutes. Could you explain that to me a little bit, if you don't mind?

S. MILLER: Well, it wouldn't be any violation of this bill. It specifically says—lays out, that if he does not offer the sonogram, the explanation, and the heartbeat to the patient, then he would be subject to have his license revoked. One caveat with that, there would be due process if those files were not—I mean those affidavits—were not found in the file. There would be a due process to make sure that, you know, they weren't misplaced in a different file or there was a fire or, you know, some other extenuating circumstances.

MARTINEZ: Because I wouldn't want to put our physicians in any type of situation to where a female who was bothered by this type of issue to go back and say, well he didn't explain this to me and now you have a physician or physicians who are now possibly going to say, well, we're not going to practice or we're not going to do this because now this is another form of medical liability that we have to face in the future and we don't want any litigation or we don't want to lose our certification. So, that is my concern.

S. MILLER: I'll have to agree with that. It is a very strong bill with very strong consequences.

MARTINEZ: Absolutely. And finally, when we talked—I know you had mentioned earlier about the free sonograms and females will not have to pay for these sonograms, but who would actually—there has been to be a cost involved, and who would actually pickup the cost of this sonogram when it is being performed? Currently, under hospitals, there is a charge of $114 per private pay down in our local communities in the valley, for example, and its private pay or insurance and there's a cost of $114. So, now, you're going to provide these types of sonograms, but without a fee. But, who would pick up that cost, because there has to be a fee? I'm concerned about that.

S. MILLER: The list that is provided to them are charitable organizations. In my home community, it'd be the pregnancy crisis center. It's a nonprofit and they rely on the charitable gifts and they offer those currently at no charge along with many other services, I might add. They're a real asset to our community.

REPRESENTATIVE GIDDINGS: I want to set aside the issue of the abortion debate in terms of what side one falls on in that debate. The conversation that I'd like to have with you has to do with physician-patient relationship.

S. MILLER: Okay.

GIDDINGS: The TMA, the Texas Medical Association, has a huge number of physicians in their association, and in terms of the abortion issue, I know they fall on both sides of that issue, but have they shared with you the concerns they have regarding this bill?

S. MILLER: They have not. I have not spoken to anyone representing that group, personally.

GIDDINGS: Okay. Well, I will tell you that they have indicated in a letter here that their concern—that this would lay a foundation for future lawmakers to sort of establish the details of the interactions between physicians and patients and allow non-physicians, people like you and me, for instance, to mandate what kind of tests, procedures, and medicines are provided, and what time frame. Does that surprise you or concern you about their—

S. MILLER: It does surprise me a little bit since no one's been by my office to speak to me about it. If I remember correctly, I don't believe they signed in on the witness list when the sonogram legislation was in committee. So, it does—it does surprise me a little bit. This is the first I've heard of it.

GIDDINGS: Okay, and just going on a little bit further, again, we're talking about patient-physician relationships. The AMA has a medical ethics opinion as it relates to their codes and so forth. Are you familiar with that particular opinion?

S. MILLER: You know, I'm not, but I trust that you are. So, why don't you share that with us?

GIDDINGS: I certainly will. It states that physicians should honor patients' requests not to be informed of certain medical information and that physicians should assess the amount of information a patient is capable of receiving at a given time, and should tailor disclosure to meet those patient needs and

expectations and in light of their preferences; and I could go on and read that, and so in effect again, my conversation with you has to do with patients and physicians and their relationship. In effect, we are asking physicians with this bill to violate medical ethics.

S. MILLER: I'm going to strongly disagree because right now there is no doctor-patient relationship, and I think this bill goes a long way to develop that. This is the only medical procedure that I know of where there is no dialogue between the patient and the doctor. It's just simply not taking place. I think it's a travesty to women, a travesty to patients; and it's, to me, it is not a good reflection on the medical profession.

GIDDINGS: Well, I understand your point of view on that, Chairman Miller, which is pointedly different from my own; and when I think about this bill, I think of another bill that came before this body perhaps two to four years ago, and it had to do with the HPV vaccine for cervical cancer, which this body overwhelmingly voted against because we were dictating that young girls be given this particular vaccine or not be allowed to go to school or whatever. So, we were dictating that young women had to have this vaccine that was supposed to be life-saving and we turned that down because we thought that was too much interference by government into the lives of families and young women. Do you recall that debate?

S. MILLER: I do recall that debate, and we're going to have that same opportunity today. We're going put this before the full body and ask the body what they want to do with this issue, also.

GIDDINGS: I understand that, and I want—I will not go so far as to ask you where you stood on that particular issue. We will just let that lie, but for the moment, I want to talk to you a little bit about HIPAA. Somebody in front of me raised the conversation, and it's one of the issues that concerns me greatly as it relates to your bill. You indicate that this particular certification by the physician that certain procedures have been done and the requirements of this bill met and that that certificate would then go into the patient's medical records. What do you envision would happen at sometime in the future as it relates to that piece of information in the patient's medical records?

S. MILLER: Well, I was informed by my good friend, Bryan Hughes, that HIPAA does apply in this case. So, anybody—

GIDDINGS: It does what?

S. MILLER: He said, according to my good friend, Bryan Hughes, that this HIPAA does apply, does apply. So, any violations would be dealt with accordingly.

GIDDINGS: Okay. I love him, Bryan—be on your side to argue a point with you. He's been on my side arguing with me on various things, but I still have not gotten the answer to this question. I didn't understand your response.

S. MILLER: Would you be so kind as to restate your question?

GIDDINGS: If I am correct, in your bill, there is a requirement that once a physician complies with the requirements of your bill that there is documentation placed in the patient's medical records; and my question was, what do you envision would happen with that piece of documentation?

S. MILLER: Okay. The documentation—I'm sorry, I didn't understand your question the first time, and I apologize for that. The documentation remains in the file for seven years or, in the case of a minor, until that minor reaches the age of 21. That information probably would never be pulled from that file or even be questioned unless it was brought up in a random audit. There's supposed to be an annual audit from DSHS each year on all medical facilities, including abortion providers, hospitals, and surgical centers and the like—

GIDDINGS: Where is that? I don't want to interrupt you, I'm sorry. I was going to ask you, where is this audit in the bill? Because I'm concerned about the ability of someone with something other than a medical record, than a medical reason, being able to go into medical records. We fought for years for patient privacy as it relates to health-related issues, and it's very, very difficult for anybody to have access to one's medical records.

S. MILLER: It's not expressly applied in this bill, but it's addressed in law, in other pages of the statute. If you wait just a second I can quote that for you, I'll get that for you.

GIDDINGS: Okay. Thank you, sir.

[Amendment No. 1 by Alvarado was laid before the house.]

REPRESENTATIVE ALVARADO: This amendment strikes the enacting clause of the bill. Members and Mr. Speaker, I'm offering this amendment because I don't think that everyone fully understands the level of government intrusion that this bill advocates. As yesterday, I pointed out that what we were doing was mandating government intrusion, and I think something that needs to be pointed out here is that there is no option. The only option that this bill has is for the woman to not have the abortion because if she refuses to see the sonogram, if she refuses to hear detail by detail, she cannot have the abortion. So, I feel that this amendment is necessary so that we all understand what is at stake here; and I will yield for a question.

REPRESENTATIVE CASTRO: Representative Alvarado, can you explain for us the procedure that the woman would have to undergo if this bill is passed?

ALVARADO: Well, the procedure is that there is a probe that's used, a vaginal probe, it's called a transducer, and it is covered with a condom and a gel and it is inserted into the uterus, and the woman is in a position that she cannot simply get up and walk out if she doesn't want to see something or she doesn't want to hear something. She is lying on the table with her legs spread very far apart, in stirrups, and she is unclothed from the waist down. So she chooses not to see or hear—she is not in a position to just get up and walk away. So, it is not an option.

CASTRO: So this is not the same as the sonogram with the jelly over the belly?

ALVARADO: Well, as you can see—no.

CASTRO: Is that the device there?

ALVARADO: This is the device that is used. It is not jelly on the belly, and I think that is something that's gotten lost here in the discussion of this bill because a woman that is 12 weeks pregnant or less, this is the kind of procedure that's used, not the jelly on the belly.

CASTRO: Now, do you know of any other medical procedure where the legislature has directly gotten involved in the physician-patient relationship to this extent?

ALVARADO: I don't know of any. In fact, even inmates in prison are not forced to undergo medical procedures much less unnecessary medical procedures.

CASTRO: And would you say that this is big government?

ALVARADO: I say it's pretty big. This is government intrusion at an all-time high. Instead of making probing a priority of this session, we ought to be probing on how we fix our $26 million budget.

CASTRO: So, why would we be considering a big government kind of bill—do you feel that the author and others who support the bill feel that women are just too dumb to make a decision that they've contemplated for quite a while?

ALVARADO: I think it's about shaming women, humiliating women, and embarrassing women that they would have to undergo such a mandate.

CASTRO: Thank you.

GIDDINGS: Representative, I was speaking regarding HIPAA and an audit, and the author of the bill has just kindly informed me that at this point there is no audit in this bill; and so, the line of questioning in terms of what happens to those—to that documentation was a legitimate question under those circumstances, would you not say?

ALVARADO: That's correct.

GIDDINGS: There is no audit in the bill at this point and the author was kind enough to point that out. Does it concern you at all, as it relates to HIPAA and the possible violation of the privacy act as it relates to one's health records?

ALVARADO: Yes, ma'am, I think that is very concerning and I'm glad that you brought it up.

GIDDINGS: And finally, that the patient-physician relationship is such an important one and just recently, representative, I happen to have a family member in ICU for three weeks and I cannot tell you how important it is for physicians and patients to be able to trust one another and to be able to have open honest communications without being directed from somebody outside of that relationship. Would you agree with that?

ALVARADO: Yes, ma'am, I would. Thank you.

GIDDINGS: And finally, this question is indirectly related to this bill, but not exactly. On yesterday, when this bill went down, there was a motion to recommit and it required a certain number of votes, and most of the members of this body had the courtesy to agree to recommit this bill whether they agreed with this bill or not. Did that not happen?

ALVARADO: Yes, ma'am; and we are here, back 24 hours later. I guess we're doing the 24-hour waiting period.

GIDDINGS: And that led me to this comment. I think it's a little bit early for this body to start cutting off and shutting out members when they're asking legitimate questions that concern them, because what goes around will come around.

REPRESENTATIVE HERNANDEZ LUNA: Ms. Alvarado, do you know if there are any exemptions in the current bill for a woman to not have to undergo that transvaginal probe, for instance, if she's been brutally raped?

ALVARADO: I don't know of any exemptions.

HERNANDEZ LUNA: Or if she's a victim of incest or any other penal code violations?

ALVARADO: No. As I stated yesterday, I think that if you—if you can just imagine in the description I gave yesterday of how the woman is lying there, and she is a victim of rape or incest, and then she is forced to undergo this thing. I think it is insensitive, I think it's cruel, and this body wants to mandate it. This ought to be at a doctor's discretion and not—we should not be forcing any type of procedure.

HERNANDEZ LUNA: So, do you believe that we're stripping the doctor's ability to assess the situation and decide which is the best medical practice by mandating that this ultrasound be performed?

ALVARADO: Yes, ma'am.

HERNANDEZ LUNA: Do you know, is there any exemption if a husband and wife have consulted at home and have decided that they don't want to continue with the pregnancy and both husband and wife go to the doctor's consultation room—is there exemption for that?

ALVARADO: No, there's no exemption for that.

HERNANDEZ LUNA: So, the state is telling that household, that husband and wife that have consulted with each other, we are mandating this sonogram.

ALVARADO: Yes, ma'am. That is correct.

FARRAR: Representative Alvarado, so we've been told different things that you can't use—that the sonogram is not mandatory, but I read the bill it says it is mandatory. And so there's language in the bill here, though, that talks about how—how she doesn't have to receive the information. That's what it says on page 6, line 15, that she's not required to receive the information; and so, I'm just wondering, if you're on the table, as you had described, and many of the people in this room know that experience, and so you are undergoing this procedure, and

how can you avoid receiving the information? I mean, you're—it's not like you can get up off of the table. So, how would a woman be able to avoid the receipt of the information? I mean, she's made her decision, she knows what she's going to do. And so how do you do that?

ALVARADO: Well, I agree, Representative Farrar, and I think what's also been lost in the discussion in the debate of this bill is that while the doctor is performing this procedure, the doctor is giving the description. So, if you—again, you think about the position the woman is in and what is—what is happening to her at that time. She cannot just get up and walk off. So, it is not an option.

FARRAR: So, you have to hear it. I guess the only alternative would be something like "la la la la la," I mean, what you used to do as a kid when you didn't want to hear your parents or something, right? I mean, basically, what a woman is reduced to unless she comes in with earplugs or something. Am I—tell me if I'm wrong.

ALVARADO: No, you're absolutely right.

FARRAR: That to me seems a very humiliating situation to put women in.

ALVARADO: And I—as I mentioned before, not even inmates in prison are forced to undergo medical procedures, let alone unnecessary medical procedures. So, we're saying to women, as we celebrate women's history month, that we are going to treat Texas women worse than we treat inmates.

CASTRO: I believe you were finishing a line of questioning with Representative Farrar, and I wanted to kind of continue along that line. I know that this is your second term, representative; is that correct?

ALVARADO: Yes, sir.

CASTRO: And in your experience, based on what you have experienced while you've been here as a voting member, and what you know of our legislative history in the last 10 years or so, have you seen a legislature that is committed to helping out pregnant women, to helping out folks who are on Medicaid in getting benefits for their kids, and helping them through the prenatal process, and helping setup child support once the children are born?

ALVARADO: No, I haven't seen that. In fact, yesterday I pointed out, in 2005, there were some pretty severe cuts made to family planning services that have yet to be restored. So, if this is really about saving lives and reducing the number of abortions, then the best way to do that is to fully fund family planning services. So, that's what we should be focusing on, if that's the real issue here.

CASTRO: In fact, I don't know if you knew this or realized this, but in the 78th Legislature, when I arrived here in 2003, **HB 1**, the budget bill back then, cut about 8,144 women a month, pregnant women, off of prenatal services based on Medicaid. Does that sound like a legislature that supports life from cradle to grave?

ALVARADO: No, I say that's a very anti-life, anti-woman, anti-family legislation.

CASTRO: So it begs the question, if we're going to promote life in the pregnancy phase, why do we not promote life after children are born?

ALVARADO: I would agree. I think it's very hypocritical to be concerned about an unborn child but then to turn a blind eye once that child is here.

CASTRO: So, we turn our attention away as soon as they come out of their mother's womb.

ALVARADO: Yes, I would agree.

[Amendment No. 1 was tabled by Record No. 61.]

[Amendment No. 2 by S. Miller was laid before the house.]

S. MILLER: Mr. Speaker and members, this is a perfecting amendment dealing with the emergency medical clause. The Texas Hospital Association had some concerns and we're simply striking one word on page 1, line 13, the word "itself"—acceptable to the author.

REPRESENTATIVE D. HOWARD: I just want to ask you a few questions to establish legislative intent regarding the exceptions for medical emergencies. **HB 15** states that a physician may perform an abortion without performing a sonogram, only in a medical emergency; is that correct?

S. MILLER: That is correct.

D. HOWARD: So, the exception could include now life-threatening physical conditions that are not caused by a pregnancy such as trauma, like that which might occur in a car accident, or for being assaulted?

S. MILLER: Yes.

D. HOWARD: Or a life-threatening physical condition such as a stroke or ruptured spleen that results from some kind of preexisting condition, like heart disease?

S. MILLER: Yes.

D. HOWARD: So, thank you for clarifying this. I just want to make sure that we're understanding that we're broadening the definition of medical emergencies to include those that are not arising from the pregnancy itself.

REPRESENTATIVE ANCHIA: I'm trying to understand the impact of this amendment. The—it is a one-word amendment where you're striking the word "itself," correct? On line 13, page 1?

S. MILLER: That's correct.

ANCHIA: Okay. So, I just want to understand the practical effects of this amendment because it doesn't seem to square with the back and forth with Representative Howard that occurred just a moment ago. If I read the medical emergency definition correctly, it means that the life-threatening physical condition needs to be "caused by or arising from the pregnancy," not a car

accident, not chemotherapy as a result of a treatment for cancer, but "caused by or arising from the pregnancy," correct?

S. MILLER: Yes, and I believe it goes on to state "or any other bodily"—"any other bodily function that may be impaired."

ANCHIA: But the bodily function that may be impaired is not the cause. So, I think you're misreading the definition. Even if you removed the word, "itself," it still limits the life-threatening physical condition to something caused by or arising from the pregnancy itself, not from some other action but from the pregnancy. Right? So, I just want to understand the language because I don't think it gets us where we need to go in terms of a woman, for example, who may be dealing with a cancer treatment or a woman who is in an emergency as a result of a car wreck. So, can you just look at the language and walk me through why you would think it would cover those situations?

S. MILLER: Here's what I'm basing my decision on that this is satisfactory to reach the means. The Texas Hospital Association expressed your very concerns. It was their legal counsel that said this would fix the problem and asked us if we would simply make this change to alleviate the problem you just described. So, I would need to refer to their legal counsel. I am not a doctor. So that's the—where I base my decision.

ANCHIA: Okay. So, you, yourself, as the author of the bill, should be able to look at this same language and just sort of walk me through it. So, can you walk me through just how your language, which appears to be limited to damage or a life-threatening physical condition that occurs from the pregnancy, also would pickup a—the circumstance where you had a car accident or cancer treatment or something else. Just walk me through how you think this language gets us there.

S. MILLER: According to the legal counsel—

ANCHIA: No, no, no, no. I'm asking you. I'm asking you—

S. MILLER:—and that's my best example I can give you.

ANCHIA: No, no. Just read the language with me and tell me if you think it really does get us there. I'm not asking somebody who's not on the floor now. I'm asking you.

S. MILLER: Okay. What I can tell you is, that in consulting with the legal counsel, this is the request to fix the problem you have. So, I'm relying on legal counsel's advice that this gets us where we need to go, and that is the reason for the amendment to strike the word "itself."

ANCHIA: And I understand. I understand. You said that before, but the language as it currently reads, even with your own amendment, says that the medical emergency means "the life-threatening physical condition caused by or arising from a pregnancy." A car accident is not a pregnancy. Chemotherapy for cancer is not a pregnancy, and it's not, nor is it arising out of or caused by, a pregnancy. Explain to me how you get there.

S. MILLER: We'll, it's the same answer I had before, I guess, I have on advice of my legal counsel.

ANCHIA: No, no, no, I'm not talking about how legal counsel gets there. I'm talking about how you get there, as the author.

S. MILLER: I get there on advice of legal counsel.

ANCHIA: Okay. So, you don't—can you walk through—do you understand my point, at least? Do you understand where I'm coming from?

S. MILLER: I understand it very, very clear, and I'm being brutally honest with you. I reached my decision how I got there on advice of legal counsel. I relied on them to address this situation. So—

ANCHIA: Let me ask this question.

S. MILLER: That's how—that's how I got there. You asked me how I got there, that's how I got there.

ANCHIA: So, somebody else got there and then you got there. I just want to make sure I understand, chairman. Does a life-threatening physical condition caused by a pregnancy include a car accident? Do pregnancies cause car accidents?

S. MILLER: Well, depending on what you're doing at the time of the car accident, I guess.

ANCHIA: I'm not trying to be funny, I'm just trying to deal with—this is a very serious deal, you know, I know you take it seriously. I'm just trying to get at the language here because it doesn't make sense to me. Is the life-threatening physical condition caused by a pregnancy a car accident?

S. MILLER: Well, do pregnancies cause car accidents, is that your question?

ANCHIA: Sure, answer that question.

S. MILLER: Well, I guess it's possible, but it would be very remote.

ANCHIA: Okay. So, there's not causation there, right? You don't think there's causation. Does chemotherapy treatment for cancer cause or arise out of a pregnancy?

S. MILLER: So, to answer your question, I guess if you were pregnant and went into labor, that could cause you to have a car accident. So, in that case it would.

ANCHIA: Okay. That's a terrific example, but does pregnancy, per se, cause or give rise to a car accident?

S. MILLER: State that again.

ANCHIA: Using your language, right, which limits the life-threatening physical condition as being caused by or arising out of a pregnancy, does the pregnancy give rise to the car accident that then causes life-threatening physical condition?

S. MILLER: Well, the example I gave you, obviously, would if you went into labor and were birthing while you were driving.

ANCHIA: So, this language, then, you would agree with me that if this language only picks up that exception that you discussed, that very narrow exception where a woman goes into labor and then has a car accident, then, what you're saying is that's the only nexus, that's the one situation that would fall under this exception, correct?

S. MILLER: Probably not the only exception. It's the one exception I could think of off the top of my head.

ANCHIA: So, it'd be a pretty limited circumstance, right?

S. MILLER: I would think so.

ANCHIA: Okay, I'll have an amendment for you, Mr. Chairman.

REPRESENTATIVE LUCIO: I'm trying to understand the amendment. Is your intent of your amendment itself to allow an opt-out provision for those who have a medical emergency not related to a pregnancy, like what Representative Anchia addressed—car accident, they're receiving chemotherapy, they weren't supposed to be pregnant? If they get pregnant because of their cancer, because of their cancer treatment, they could possibly be at risk of dying. Does taking "itself" out of that allow those circumstances to qualify for an exemption?

S. MILLER: According to advice of legal counsel, that's what this amendment does. They said it gets them there, just striking that one word.

LUCIO: And I appreciate advice of legal counsel. Many people have lost millions of dollars because of advice from legal counsel. There could be a challenge. There could be a different, alternative view of looking at this particular language. Would you be willing to accept an amendment which would make Mr. Anchia and others feel comfortable that the fact is that you are concerned about life-threatening conditions when it comes to women, and we clarify this language and we move on with this amendment?

S. MILLER: I would not be willing to accept that amendment because I believe this amendment does just that. I think we get there with this. Thank you, though.

LUCIO: But the fact that you think we get there is not definitively getting there, and the fact is—

S. MILLER: It is in my mind. This definitive amendment—

LUCIO: And I appreciate your opinion, sir—

S. MILLER: I'd have to disagree on that.

LUCIO:—but if your intent is to protect the sanctity of a woman's life when it is life-threatening, why would you want to leave it up for alternative interpretations by including——

S. MILLER: I don't want to leave it up to alternative—

LUCIO: So—

S. MILLER: That's why I wouldn't take the amendment. Obviously, this is the amendment I'm going to take. The reason I wouldn't want to take the amendment is because I don't want to create any loopholes. I want to keep this bill tight.

LUCIO: But emergency, "life-threatening condition" is defined. I don't see how you're creating loopholes if you, yourself, tell me that it's not what we're saying it could be and based on legal counsel, you think this is enough?

S. MILLER: Actually, I am convinced that it is enough. We may disagree on that, but I'm convinced that this does get us there.

[Amendment No. 2 was adopted.]

[Amendment No. 3 by Anchia was laid before the house.]

ANCHIA: The medical emergency definition, I just had a nice dialogue with the chairman and I respect his intent on this, but what I'm trying to do is clarify his intent in the bill because I don't believe the language that currently exists in the bill gets us where we need to go. And I would direct the attention of the members of the house to the medical emergency definition on page 1, line 12, and what this amendment seeks to do, it keeps the entirety of the definition, but makes it clear that the life-threatening situation for the woman is not exclusively limited to a life-threatening situation arising out of the pregnancy or caused by the pregnancy. Because if you limit it to just life-threatening situation caused by the pregnancy or arising out of the pregnancy, it doesn't pick up the car accident, where a woman is in a car accident and she's seriously injured; and I know the chairman thinks it picks it up, but it doesn't. Where she's seriously injured, and she wants the baby—this is not a gratuitous, you know, abortion as birth control. This is a woman who wants the baby and is seriously hurt, and she needs to have a difficult decision. This says, listen, in those kinds of situations, you know, you don't have to have the sonogram. When we're talking about serious, as he even puts it, death or serious risk of substantial impairment; and in these kinds of situations—I'll tell you, if my wife was in a car accident and we were in something like—dealing with these very difficult decisions, I'd want the law to be perfectly clear. I'd want us to contemplate these kinds of situations. I don't think the language gets there. I think the chairman, despite his best efforts, has drafted language that does not get there. It also doesn't get us there for a stage-three cancer patient who is undergoing chemotherapy and whose body can't sustain a pregnancy and physically debilitating chemotherapy. This language does not get there because the life-threatening situation is not caused by the pregnancy. So, I'm just asking him to put a clarification in the bill to clarify his intent because the penalties are so great and because of the seriousness of this bill.

REPRESENTATIVE GONZALEZ: With regards to this particular amendment, if the woman is taking medications that could possibly lead to birth defects, would your particular amendment address this specific issue?

ANCHIA: Exactly, and that's the intent of the amendment, because in the case where a women is taking—has to take medication that may cause a serious birth defect, the current language only limits the medical emergency to that emergency which is arising out of the pregnancy, and that's—it's just too narrow, it's too narrow to pick up that kind of situation, so that's why I think we need to clarify the chairman's intent and fix language.

GONZALEZ: And Representative Anchia, are there any other examples or situations that you can think of, not currently under this particular house bill, that would require where a woman may experience a medical emergency but is not exempted in the bill from sonogram requirements?

ANCHIA: Well there are a number—I mean, I talked about the woman who was a cancer patient, I talked about the car wreck and I found it—I found it encouraging that the chairman said that he thought the bill would cover a woman that had a medical emergency like a car wreck; however, the language that he had in there and the subsequent amendment that he added removing the word "itself" still doesn't get us there. It doesn't clarify the language of the medical emergency. So, I—I ask the members of the body to please help me clarify the intent of the chair who said he hopes this covers those kind of medical emergencies. This language will make it perfectly clear. When we're talking about stripping doctors of their licenses, we need to be perfectly clear to be fair to Texas doctors, to be fair to women, and to be fair to the unborn.

GONZALEZ: And so this way there is no doubt at what constitutes a medical emergency?

ANCHIA: That's right. There's no ambiguity.

MARTINEZ: I really do like this amendment, especially because of the way it is stated in the bill, saying that medical emergency means a "life-threatening physical condition caused by or arising from a pregnancy itself," and when you talked about narrowing a very narrow margin, would you agree with me that maybe preeclampsia or gestational diabetes would be those very narrow indicators of that life-threatening emergency?

ANCHIA: Yes.

MARTINEZ: And by no means is there any type of detail here that talks about a car accident, about any type of traumatic event, any assault, anything that is traumatic with that patient that could cause her to go through this.

ANCHIA: Yes. I mean this simply acknowledges that there maybe an event in a woman's life other than the pregnancy itself that may be life-threatening. That's all this amendment does and it clarifies language that I think was unartfully drafted and seeks to contemplate the chairman's intent.

MARTINEZ: So then, what your amendment is doing is further defining what a life-threatening emergency would be, in this case?

ANCHIA: I don't know if I'm further defining it. I just think it's made perfectly clear by this language.

MARTINEZ: Thank you very much, I like your amendment.

S. MILLER: Mr. Speaker, members, I'm going to ask that you stay with me on this. This would actually—I think the representative has good intentions, but I believe it opens up some loopholes. Therefore, I'm going to have to move to table.

CASTRO: Mr. Miller, do you acknowledge the point that Mr. Anchia's amendment makes, which is that there may be external factors, besides the pregnancy, which may endanger the woman's life?

S. MILLER: Yes, that's addressed in the bill.

CASTRO: Okay, and didn't we pass, in 2003, a bill called the Laci Peterson bill?

S. MILLER: I don't know when that was. I'm sure you're correct, though.

CASTRO: Well, can you explain what the Laci Peterson legislation was?

S. MILLER: I'm sure you can do that better than I—I'll let you do that.

CASTRO: Well, I didn't write this bill. You did.

S. MILLER: Well, I didn't write the Peterson bill, either.

CASTRO: Well, you voted for it, and so did I.

S. MILLER: I can't remember what we did in 2003 on one particular bill. I think we had about 6,000 that session.

CASTRO: You don't remember what the Laci Peterson legislation was?

S. MILLER: Well—

CASTRO: The Laci Peterson legislation said that a third party actor, if that person causes the loss of a pregnancy, can be held criminally liable. There was a big debate on this house floor about whether that was a way to make a statement that an unborn child was a human life. You and I both voted for that bill.

S. MILLER: Okay.

CASTRO: Now, wasn't that an acknowledgment by this body that there is a third party external force that can have an effect on an woman's pregnancy that may not arise from within a woman's body herself?

S. MILLER: Well, actually we dealt with that in 2003. This is a different bill, today; and this is Anchia's amendment. So, that's not the topic we're on.

CASTRO: But what I'm trying to get you to acknowledge and realize is that there are other factors which he is describing which have an effect on the woman's pregnancy, whether those are done by somebody else or whether—if another medical condition that she may have—that's not directly related to the pregnancy.

S. MILLER: The intent of this bill is to have a medical emergency provision in it that, where the life of the mother or any bodily function of the mother is threatened, that they get an automatic bypass of the requirements of this bill; and that's what we're trying to do here today, and the amendment that I offered earlier addressed that. I would pledge to continue working on that; however, this

amendment, in my opinion, opens it up to a lot of loopholes, which I'm not willing to do in the bill. We would intend to take care of the medical emergencies, but I do not want to create loopholes allowing for an abortion-providing doctor to skirt the law.

CASTRO: What do you mean by loopholes? Which loophole are you describing?

S. MILLER: Well, under this amendment, if you allow the doctor to determine a condition might be threatening to a mother, that's his opinion—it could be anything. Maybe she was distraught or he might think she's suicidal, or any other reason; and I—the intention of the bill is not to be that broad. We want to keep the scope—

CASTRO: Let me make—

S. MILLER: We want to make it very limited to physical condition and bodily harm.

S. MILLER: Please, let me finish my answer, sir.

CASTRO: Well, please let me ask my question.

S. MILLER: Well, you can ask one, but can I please finish my answer?

CASTRO: I'm waiting.

S. MILLER: Okay. Thank you very much. The purpose of this bill—we want to make sure that those medical emergencies are addressed. It's not my intention, as author of this bill to, in a medical emergency, to make a woman wait 24 hours. It is also my intention not to create loopholes and use the medical emergency provision of this bill to skirt the issue and not provide the woman a pertinent information required in this bill.

CASTRO: Okay. Thank you. You've described the loophole. I don't quite understand what loophole you're talking about, but here's my question—but Representative Anchia is not presenting you with a poisoned pill. He's presenting you an alternative that would help the intent of what you're trying to do. Why wouldn't you accept that amendment?

S. MILLER: Because I don't believe that's what his amendment does.

CASTRO: Okay. Well, I'm going to let him follow up on his questions.

ANCHIA: Thank you, Mr. Chairman. What loopholes would you be referring to? I've heard you say that three times now.

S. MILLER: Currently, the bill as written would allow for a medical emergency that threatens the life of the mother and/or any bodily function of the mother, if I read your amendment right, it would now be determined as a condition as determined by the physician. That's simply too broad, in my opinion.

ANCHIA: If I might, Mr. Chairman, if you just look at the language of the bill, the bill still says that, and I didn't change your language at all related to placing the woman in danger of death or serious risk of substantial impairment of a bodily function. We're not talking about mental, we're talking about bodily; and

I also didn't change the certification of physician that previously existed in your language. Would it be helpful—and I'm just trying to arrive at clarity in the language—would it be helpful if it said that a "medical emergency" means a physical condition that, as certified by a physician, places the woman in danger of death? Because the language that I think is too limiting for your amendment is the "caused by" or "arising out of the pregnancy." That's the language I think we're wrestling over today; and so, if I heard you earlier, you were concerned that the loophole may authorize a doctor to find mental harm and then not—and then authorize or allow for an exemption to the—to the procedure. Right? So, what if we put "physical condition" back in? Would you see that as closing a loophole?

S. MILLER: I think that would address mental condition but it doesn't address the peripheral issues that concern me, like—

ANCHIA: Like what?

S. MILLER: Well, maybe a mild heart condition, or slightly high blood pressure, or a diabetic condition, that are not currently spelled out in the bill.

ANCHIA: You think a diabetic condition would fall into this category of placing the woman in danger of death or serious risk of substantial impairment? I mean mild diabetes, do you think that would, that loophole, is created by your own definition?

S. MILLER: No, I think it's created by your definition.

ANCHIA: How is it created by mine?

S. MILLER: Well, because you give it to the discretion of the doctor—

ANCHIA: But the discretion of the doctor is not—I'm not changing the discretion for doctor already contained in your amendment.

S. MILLER: Well, you're striking the portion that says "life-threatening physical condition" and—pardon me, and substituting the word simply "conditioned." You're taking out the word "life-threatening physical condition."

ANCHIA: Because the word "life-threatening" is already contained later on. You have it twice in your definition. It's already contained later on in "danger"—with a phrase, "in danger of death or serious risk of substantial impairment." So, I mean, my view is that if you put "physical condition" in, it covers the car accident, it covers the chemotherapy, but currently, your medical emergency definition, by the way that is in other parts of the code—in fact, do you know how many times it appears in our civil code or our Texas statutes?

S. MILLER: No, I do not.

ANCHIA: It appears 26 times throughout our Texas statutes. So, we're creating a very narrow definition here that's not only going to impact this bill but many other parts of the Texas statutes, and that's why I think it's important, not only because of the seriousness of this bill, but because of the collateral impact of this language on other statutes that we get this right; and I hope you consider that my intent only. I'm not trying to gut your bill. This is language that's simply trying to improve the language of the "medical emergency" definition.

S. MILLER: Well, I believe the previous amendment that I offered addresses that, and my concern is that it destroys the intent of the bill by allowing the physician to use any condition to perform the abortion.

ANCHIA: No. It's not any condition. It's a condition that "places the woman in danger of death or serious risk of substantial impairment of a major bodily function." I mean, that's your language, and it's in there.

S. MILLER: Well, in my opinion, it just broadens the justifiable medical condition.

MARTINEZ: I'm coming in support and speaking in support of Representative Anchia's amendment mainly because of a few words. There's two words that his amendment fixes and if you look at—and in reading that one section, means a "life-threatening physical condition caused by or arising from pregnancy itself." If you look at those two words, "pregnancy" and "itself." When we're talking about car accidents, that is not because of pregnancy itself. When we talk about a fall, that may be any type of traumatic event. It is not by pregnancy itself. Therefore, I am asking for you to support this amendment, mainly because we need to look out for those instances when it is not due to pregnancy. Therefore, I believe that his amendment does answer that question; and by no means is it gutting this bill, and it is just addressing the incidents of not having to do with pregnancy, but other issues or circumstances that may arise because of that. So, members, I ask you to please look at those two words, "pregnancy" and "itself" and support Representative Anchia's amendment.

ANCHIA: I hope you've all had a chance to listen to the debate and also take a look at the language. I believe that the chairman is sincere when he says he thinks the existing medical emergency language is language covered, the other situation. I hope you've had a chance to look at the amendment. This is not an intent to gut the bill. This is not an—this is not intended to change the fundamental scope of the bill. This simply wants to make language clear; and again, as I said earlier, I think we owe it to the doctors in Texas who stand to deal with some pretty heavy consequences if they somehow find themselves outside the language of this bill, and I want to bring clarity to the process. I think the stakes are too high—

REPRESENTATIVE PHILLIPS: I appreciate your concern, to make sure that this is clear and people understand the exception, and there's obviously a few disagreements that this is sufficient; but the way I understand it, just for the record, you're proposing to take out "life-threatening physical condition," is that correct?

ANCHIA: No, it's not correct. I'm proposing to take out "life-threatening physical condition caused by or arising from a pregnancy." Just so you understand, let me finish my—

PHILLIPS: Let me ask you a question.

ANCHIA: I'd like to finish my answer. So, the reason that's important, Chairman Phillips, is if you look a little bit farther down, the qualifier for "life-threatening" already exists in the second part of the definition. It places—hold on a second—places the woman in danger of death or serious risk of substantial impairment of a major bodily, not mental, bodily function. That's a pretty important part of the definition.

PHILLIPS: I ask you to yield to ask you a question and—I just want to ask you a question about this.

ANCHIA: May I finish? Look, we've got 10 minutes.

PHILLIPS: Let me just ask you a question, and we'll go on.

ANCHIA: I'm happy to have this dialogue with you, but the reason I think this is an important change, Representative Phillips, if you look at the first line—

PHILLIPS: Thank you for letting me ask you some questions.

CASTRO: Mr. Anchia, is your only intention here to clean up the language of that provision in the bill?

ANCHIA: With all due respect to the chairman, I think this definition is not written well.

CASTRO: Okay. You're an attorney, aren't you?

ANCHIA: I am, but I'm not a constitutional lawyer or a health care lawyer or anything like that; but I can look at language in a definition and I do that every day, all day in my law practice, and I can tell you that this language is too narrow and it doesn't pick up the intent that was articulated by the chairman. I came to the chairman in good faith with this amendment, it's a very narrow amendment and I was hoping he would take it. So, I guess we're going to have to vote.

[Amendment No. 3 was tabled by Record No. 62.]

[Amendment No. 4 by Hernandez Luna was laid before the house.]

REPRESENTATIVE HERNANDEZ LUNA: This amendment provides for a sexual assault exemption. For many on the house floor—sexual violence is something that we can all agree is one of the most heinous crimes that anyone, male and female, can endure. It is the behavior that is used by the perpetrator to gain power over the victim. In most cases, the victim is familiar with their perpetrator and it is a case where they have violated their trust. Victims of rape of any kind go on through their lives knowing that they may never feel the same. Remembering vividly every detail of the sexual intercourse they're forced to have, and always wonder, "when we will I be okay again?" Many may carry false guilt, guilt that cannot be felt by anyone except their attacker. At this point in the time of a rape victim's life, countless with carrying guilt, as if they had anything to do with prompting the sequence of events. We have all worked to condemn the act of the predators and preventing individuals from feeling what I just described to you. We try to insure that victims know nothing less than comfort and love when they need it the most. Currently, **HB 15** does not provide for a sexual assault exemption. Members, I ask that you vote with me to protect

these victims that have already been victimized, and this bill will further victimize them by forcing them to undergo this procedure.

REPRESENTATIVE GONZALEZ: So, as the bill stands, currently, there is not an exception for these cases of rape and incest; is that correct?

HERNANDEZ LUNA: That is correct.

GONZALEZ: And so a woman who has been raped or is a victim of incest would then have to hear the heartbeat and see the image of the rapist's fetus; is that correct?

HERNANDEZ LUNA: Right. The way the bill stands we would have to require that victim of sexual assault would have to relive the entire experience, and in a very intrusive way. We're asking for a vaginal probe of someone that has been raped or a victim of incest.

GONZALEZ: So, basically then, the state is compounding the trauma that a woman faces from having been sexually assaulted and having been a victim of incest through not having a safeguard provision in this bill; is that correct?

HERNANDEZ LUNA: That is correct. We're making them relive that episode.

S. MILLER: Members, this is a very important issue and I can appreciate the representative's point of view; but I would just tell you that there is already a carve-out in the bill that this issue has been addressed on page 6, line 12. No woman has to view or listen to the sonogram if she so chooses. So, I'm going to have to oppose this amendment, regrettably.

REPRESENTATIVE VILLARREAL: Chairman Miller, can you restate the line that provision is found on page 6?

S. MILLER: I could read it to you if you'd like. It's on page 6, line 12, section 171.055, receiving information during the sonogram. It states that the physician and the pregnant woman are not subject to a penalty under the subchapter solely because the woman chooses, the woman chooses, not to receive the information.

VILLARREAL: Does that address the performance of the procedure?

S. MILLER: It addresses all three sections of the sonogram—viewing the sonogram, the verbal descriptions, and the listening to the heartbeat.

VILLARREAL: So the sonogram—

S. MILLER: There's no penalty for her, there's no penalty for the doctor, there's no penalty for the medical facility if she chooses not to participate.

VILLARREAL: Does the sonogram still have to be performed?

S. MILLER: Well, in all cases, a sonogram is performed. It's a standard medical practice prior to an abortion.

VILLARREAL: So, this bill—

S. MILLER: I think, to answer to your question, maybe I'll skirt it a little bit. The sonogram has to be—it does have to be offered. It does have to be performed because of standard medical procedure. Under this law it would have to be offered, but she could refuse.

VILLARREAL: So, the sonogram actually could be refused and then it would be up to the abortion doctor, physician, to choose the standard of health care—

S. MILLER: Just so we're clear—she would have to sign the affidavit saying that it was offered to me, and that's spelled out elsewhere in the bill. Saying yes, that it was offered to me, you know, I refuse, but it was offered to me. That clears the doctor of any wrongdoing. We want to make sure that that's the case.

VILLARREAL: And so every requirement in your legislation is bypassed for cases where there's incest and rape as long as she signs—

S. MILLER: You got it. That's correct, sir. That's correct.

LUCIO: Mr. Chairman, we've been back and forth regarding different issues regarding this bill, and you continuously point to that section, page 6, section 12, and I understand the language there; and you're probably right, I think it does cover some of the issues, but the problem is, at the time, when all this information is presented to the woman, she does not know because it does not state that she must be given the information stating that she can refuse. Well in practice—I'm sorry, in practice, if this bill passes, all she's going to be told of all the things she has to do. No information is guaranteed to be given to her that she can receive. So, she's going to think that it is required by law that she do this, or else.

S. MILLER: Well, that would be explained in the doctor-patient relationship. The doctor would be able to explain the entire medical provision and if you'll look on page 4, line 22, it says that she had the opportunity to view. It doesn't say she must view, it says she had the opportunity to view. So, she was provided a manner—understanding, she was provided with a live real-time sonogram—simply states that she has the opportunity—

LUCIO: Would you—

S. MILLER: I think the bill clearly states that it is not mandatory in that sense.

LUCIO: Would you feel that the physician would be subject to sanction, if he made it protocol in his office when presenting this information to any patient seeking an abortion, that they had the opportunity to refuse?

S. MILLER: I think that's a prerogative of the doctor whether they want to offer that or not. I understand it's at doctor's-patient relationship and the bill doesn't address that.

LUCIO: Would he be subject to sanctions or would he be subject to the ramifications in this bill that the license would be taken way, if he made a protocol? You understand what I'm saying? If he gets protocol saying "Oh by the way it says all of this but ma'am you know by state law page 6, section 12, if you read that, you can refuse and at that point, I don't have to do this."

S. MILLER: The sanctions for removing the facilities or the doctor's license is failure to have the affidavit in the file saying that the sonogram was offered, and that's the only sanction. There's not a sanction that addresses your issue. Sanction arises when the doctor does not offer the sonogram to be viewed.

LUCIO: So, for legislative intent purposes, would a doctor be complying with the philosophy, with the purpose of this bill, if at the time he's presenting all the information that he's required to under the bill he also stated but by law and by the way the bill is written, you do not have to go through this.

S. MILLER: I'm not willing to go that far, but I will do this for you—that the only sanction for that doctor the removal or revocation of his license is failing to offer the sonogram and to have the affidavits in the medical file.

LUCIO: Could he—based on that language, on page 6, line 12, that section that you refer to, could he tell her you also have the right to refuse to sign the affidavit?

S. MILLER: The bill doesn't address that specific point. It simply states that there's no penalty if he refuses to do it and it also addresses there is a penalty if he refuses to offer it.

LUCIO: I understand that, but respectfully, Mr. Chairman, you're also using that language, which is very obscure, to state—it's already covered in the bill, even though it explicitly is not. When I offered you scenarios regarding women who have had multiple ultrasounds or women who, like this very amendment, are victims of domestic violence or rape. You are using this language, which is very obscured, saying it is covered, but when I ask you if for legislative intent purposes whether or not a doctor could routinely state you have the opportunity to refuse to sign this affidavit by law, you're telling me it's not covered by the bill. So, I'm just trying to find some consistency.

S. MILLER: My answer would be the same—that the bill is silent on that subject.

LUCIO: So, if it's silent, essentially, for legislative intent purposes, he's not subject—he's following the rule of the bill.

S. MILLER: No, if I misspoke, they do have to sign the affidavit, even if—Representative Harper-Brown said I may have misspoken, but they do have to sign the affidavit even if they do not review the sonogram, let me make that clear. It has—it simply has to be offered. Your point, the bill is silent on your point.

LUCIO: Okay. So, you misspoke when you said—based on this new information presented to you by Representative Harper-Brown—you misspoke when you said that Representative Hernandez Luna's amendment is covered by the bill, page 6, section 12, because they can refuse, but based on this additional information, simply refusing is not enough. They still have to sign an affidavit meaning they are the victim of rape or domestic violence, are there because they have been violated. Yet, they still have to sign an affidavit with very explicit language about this procedure, even though in a circumstance like this, the majority of this house

will agree, if this person is not in a regular circumstance like others seeking abortion—

S. MILLER: Actually, there's no penalties to the woman if she doesn't sign that, but the doctor will have his license revoked. In all cases, in all cases, the affidavit must be in the file.

LUCIO: Hold on. Let's explore that.

S. MILLER: But in no case, rape, incest, or otherwise, is it mandatory that she view the sonogram.

LUCIO: You just said there's no sanctions for the woman but you said there will be sanctions for the doctor. So, a doctor, who has in his office a victim of rape, a child of 14 years old who has been raped or an adult who has been raped, would be in violation of this bill if he doesn't have, even though you're using that section as a basis for saying it's covered, an affidavit in his file where he explained to a 14-year-old rape victim about the consequences of an abortion and having to go through this affidavit. So, he would be subject to sanctions for legislative intent purposes?

S. MILLER: If the doctor does not offer—he must offer the sonogram. The woman does not have to participate and—

LUCIO: What if she refuses to sign the affidavit?

S. MILLER: To verify that she was offered that, well the doctor would assume liability, obviously, and he would become liable if there were any complications from that and be subject to a medical malpractice suit that the doctor would perform that operation in his own peril without the affidavit.

LUCIO: Okay.

S. MILLER: It must be in the file.

LUCIO: So—

S. MILLER: That's his liability for protection.

LUCIO: A 19-year-old college student at The University of Texas, very educated in the engineering department, knows exactly what she wants out of life, unfortunately on her way home—

HERNANDEZ LUNA: Mr. Miller refers to page 6, Section 171.055 as a section in the bill that provides for the sexual assault exemption, but when you read line 15, if the woman chooses not to receive the information—it does not address whether she chooses not to endure this vaginal probe. But I think this extension is necessary to protect those victims of rape and sexual violence.

REPRESENTATIVE DUKES: I had wanted to pose a couple of questions to Chairman Miller; and so, I'm going to divert from those questions just a little bit. I had one, had he ever had a transvaginal sonogram?

HERNANDEZ LUNA: Just based on anatomy, I don't think he has.

DUKES: Had he ever experienced being in a position of rape or domestic violence?

HERNANDEZ LUNA: I don't know if he has or hasn't but I can imagine the effect, that it was a very traumatizing experience—

DUKES: But we know one out of two is truly not a possibility of those questions. So, we don't know if he could ever be in the mind-set of a woman who has been raped or has been through a violation to know what that woman is going through at the time that there are other authority figures around her telling her that she has to have a certain procedure. That she's going to be able to stand up all of a sudden and be strong and say, I don't want to have this.

HERNANDEZ LUNA: I agree, and like we discussed earlier, the position the woman is in, she is unclothed on the table, in stirrups, with her legs spread, while this vaginal probe is being—

DUKES: So, basically, if this bill, as written, states that because a situation is not reported as rape when an individual goes in to try to have this procedure, are we not saying that we're being complicit to statutory rape? That we're trying to cover up for statutory rape?

HERNANDEZ LUNA: We're not providing, we're not protecting that person that's already been victimized.

DUKES: Because they could be a young person that has some sugar daddy boyfriend who's older than they are and they're below 18, and we're trying to cover up in this law by saying we won't allow them to have an abortion nor will there be any type of information provided. So, we're basically just covering up for some dirty old men by not accepting this amendment.

HERNANDEZ LUNA: I agree.

DUKES: You have a good amendment.

D. HOWARD: I've been looking, I don't have all the information before me right now; but the part I'm curious about is the part about minors. My understanding, from what I've been able to find here real quickly, is that to get a judicial bypass, you have to show certain things like being mature and sufficiently well-informed about your pregnancy options to make a decision without a parent or legal guardian being involved?

HERNANDEZ LUNA: Correct.

D. HOWARD: These young girls can be very, very young and can come from abusive homes, have very severe—a judge is not going to do this unless there's a real serious problem going on for that child.

HERNANDEZ LUNA: But we're addressing the issue of incest, of rape, when they can be impregnated by their father.

D. HOWARD: Absolutely, and so these young children, essentially, who have gotten pregnant and are traumatized already, obviously, by that and have found a way to get help, to get to a judge to give judicial bypass, to terminate a pregnancy that was imposed on them in a way that was obviously extremely horrible and

inappropriate. We're still going to subject to these young children to this, having to view and hear the sonogram and I understand it says in the bill, as Chairman Miller keeps pointing out, that you don't have to; but the fact is they're being put in a position of even having to say they don't want to do it, rather than never—not even subjected to it in the first place, which they should not be.

HERNANDEZ LUNA: I agree.

D. HOWARD: I thought you would. Thank you very much.

[Amendment No. 4 was tabled by Record No. 64.]

[Amendment No. 5 by Farrar was laid out before the house.]

FARRAR: Under the Texas Penal Code, a physician is afforded a defense against murder for performing an abortion. The bill as it stands today would afford the physician no dissent against a murder charge if he fails to provide written materials to clients in cases where they have not been kindly furnished by the Department of State Health Services. A simple oversight may cause the physician to lose his or her license. Taking a look at Section 1.07(a)26 of the Texas Penal Code, it defines an individual to include a fetus in any stage of gestation. Therefore, a person who performs an abortion outside of the narrow confines is considered a murderer. So, unless we correct this bill, a tiny technical violation like not passing out written materials could theoretically turn a legitimate doctor into a murderer; and this was a real problem in Louisiana recently where doctors did not receive the written materials from the state health department. They had to go to court for an injunction to keep their doors open. Through no fault of their own, they were unable to comply with the requirements of the law; and this amendment simply ensures that if the state—the state is at fault for not providing the written materials, the doctor and the patient will not be liable.

GONZALEZ: Can you walk me through this? How exactly can a physician lose his or her license under this bill as is?

FARRAR: Well, if they don't provide the written materials—it's a very severe punishment. It's unprecedented. Typically, we go through a series through the medical board and there's all kinds—there's a variety of sanctions and steps and so on, but this bill is extremely harsh. They would actually lose their license and as I stated before, it's a difficult time. We have budget cuts and there's a lot of priorities. I am sure you are hearing from your constituents, I still don't know why we are doing this bill. So, right now when our constituents phones are ringing because of the cuts to the education system, to our universities, and so on; but, nonetheless, we are going—those cuts are going to affect everything. They're going to be very pervasive; and so, if we are not able to pay for these materials to have them printed then a doctor wouldn't be able to distribute them and therefore, the doctor couldn't perform abortions or would have to choose between performing an abortion and losing their license.

GONZALEZ: Well, isn't it normally really easy for a physician to lose his or her license, and along that line, shouldn't we be in the practice of revoking a license? I'm a licensed attorney, we have licensed attorneys that are colleagues of ours, as are licensed doctors. Shouldn't we be revoking those licenses if you don't do your jobs correctly?

FARRAR: Well, certainly, that has a lot to do with your performance; and of course in our state and our country we believe in due process; and so, those due process mechanisms are built into various stages of our government and so it's here in Texas and so—but in this bill in particular it goes from zero to a hundred miles per hour just like that. It doesn't—there—it doesn't have progressive stages.

GONZALEZ: And so why is it bad for a physician to lose her license? I mean, what are the repercussions that a community is facing?

FARRAR: Well, you could you imagine, as an attorney, you're licensed by the state, you lose your license by the state, your lose your license, you lose your livelihood, you lose your family position in society. There's all kinds of stuff, there's all kinds of ramifications; and in some areas, I imagine your district is a lot like my district where you have a few doctors and the community loses as well.

GONZALEZ: And so a physician loses his or her license—what else happens to a doctor under this bill as it stands, as is, without your amendment?

FARRAR: They could be considered murderers, as well. You have to make sure that, you know—that there aren't unintended consequences to the bill. We know we don't like the bill, but nonetheless, we have to try to make the bill better.

GONZALEZ: So, there are potential criminal repercussions under this bill that are not specifically outlined and so these are very real consequences for the doctors of Texas.

FARRAR: Correct.

[Amendment No. 5 was tabled by Record No. 65.]

[Amendment No. 6 by Farrar was laid before the house.]

FARRAR: Mr. Speaker and members, again, as the law stands today, when providing the required informed consent materials to a woman, the individuals providing the information are allowed to do so by phone. This new bill, however, would require the physician performing the abortion to provide the informed consent materials face-to-face. This reversal of position is problematic for a few reasons. One, at some facilities, physicians work on a shift schedule. The physician who is to provide the abortion may not have been at the facility 24 hours before to provide the informed consent materials; and moreover, all physicians undergo extensive medical training and are more than capable of answering all relevant questions a woman may have. It doesn't make a difference whether or not the physician is performing the abortion or not. Any physician is capable of providing the informed consent materials; and second, the law was originally crafted to allow telephoned information for a reason. Women who

have to travel long distances from rural areas to get to a safe and regulated medical facility to receive an abortion may not have the resources or time to come 24 hours in advance to talk face-to-face with a physician. Also, some women may feel more comfortable receiving information over the phone where they can do so in a comfortable and known environment. By allowing the information to be provided over the phone, a physician can still effectively answer any questions an individual may have and completely satisfy the informed consent regulations without placing added unnecessary burden upon a woman. The law was originally written with the understanding that a face-to-face conversation with the physician performing the abortion is not always plausible or practical for either party. If this bill is truly concerned with making sure a woman is fully informed, it would make sure that all methods of communication remain legal. It should not matter how or from where the information is received, as long as it's correct and that it is received.

REPRESENTATIVE RODRIGUEZ: If I understand your amendment, it's letting a physician provide with the—provide the information that's being required; is that correct?

FARRAR: Correct.

RODRIGUEZ: So, it's all the same information, so it's making it easier for the woman to kind of basically abide by this law?

FARRAR: Right.

RODRIGUEZ: Because right now as this bill reads, it would actually becomes a bit more burdensome for the information that this law is going to be required.

FARRAR: Substantially more burdensome.

RODRIGUEZ: So, this is not changing what's been provided, just making it easier for that information to be obtained and provided to the woman?

FARRAR: Right. They would still—they would still be receiving the information. They'd have different options and we always talk about providing people more options, people tend to be more compliant when there are more options and so on; and so this provides that.

RODRIGUEZ: So, do you think if this bill were to pass, let me think—without your amendment, what do you think the effect would be on women?

FARRAR: I think that—I mean, you could argue that it would have constitutional problems, as well, because when you start to make the woman's constitutional right more burdensome, then you start getting into an area where you could have legal challenges.

RODRIGUEZ: So, we're not going after any of the information that Representative Miller is seeking to have the woman get, not changing any of that?

FARRAR: No. It would be the way it is now.

RODRIGUEZ: We're just making it so that she can get it more readily with her physician and in an even more comfortable setting of something that she's familiar with and giving her that option. We're not changing any of the information, right?

FARRAR: Exactly, and a lot of women feel more comfort with their OB/GYN, their family doctor, or whoever. You know, they have a history with that person, and as we know, not all doctors perform abortions. So, it's like—it's another specialty. So, you—it would keep the woman feeling comfortable in her medical home.

RODRIGUEZ: I think you have a good amendment.

[Amendment No. 6 was tabled by Record No. 66.]

[Amendment No. 7 by Castro was laid before the house.]

CASTRO: This amendment is meant to make sure that we inform women who are at the abortion provider that we inform them of medically accurate information about contraception, methods of contraception; and obviously, I think it's very important that these women have this information. Now, the women's right-to-know legislation, essentially, said that the provider had to tell them, simply tell them that there were resources out there somewhere else. What our legislation would do is to make sure that they get it directly when they go in for the abortion, for the abortion to be performed; and I want to point out that there are about 118,000 Medicaid, unintended Medicaid births ever year, 118,000. Now, I think, no matter where we stand on this issue or on the issue of abortion, I think all of us can agree that abortion should be a last resort and that the way we make sure that we decrease the number of abortions is to make sure that nobody has to make a choice about having an abortion, and that's the intent of this amendment; and I'll yield to Representative Johnson, if he has a question.

REPRESENTATIVE JOHNSON: I have a question about what we currently provide. Could you sort of elaborate on what information our current informed consent law requires that we provide to a woman seeking an abortion with respect to unplanned pregnancy prevention?

CASTRO: Sure. It's very scant, actually. What we basically do is send them out the door and say here are some places that can help you out and give you information about the attorney general services, about Medicaid, maybe about contraception, but we're not very good about actually providing it on the spot, so to speak; and that's why I propose this amendment.

JOHNSON: One more question.

CASTRO: Sure.

JOHNSON: You mentioned in your remarks that we have 118,000 or so unintended Medicaid births ever year in Texas. Is there a cost associated, a number, a dollar amount that you can attach to these Medicaid births every year, those unintended Medicaid births?

CASTRO: That, there is. In 2007, for example, there were 118,524 unintended Medicaid births. The cost to the State of Texas was $1.2 billion, $1.2 billion dollars; and this legislation is meant to cut down on unintended pregnancies to help women be informed and the effect will be to save the state of Texas a lot of money, hopefully.

[Amendment No. 7 failed of adoption by Record No. 67.]

[Amendment No. 8 by Castro was laid before the house.]

CASTRO: This amendment makes quite clear that a woman has a right to refuse hearing the information that we are offering up to her. Obviously, not a refusal to have the sonogram as has been stated, that's part of the law already. It simply makes it clear to her that she can refuse this. Now, I know that Mr. Miller has told us that at the end of the bill, if you look at the bill, near the end, there's a section that says that neither the doctor nor the woman will be penalized if she refuses. All this amendment is doing is putting in language that makes it clear to her, telling her, hey, you have the right to refuse. You can say that you don't want to hear this or see this; and that is the purpose of the amendment, that's all it does. I would also mention that in the senate, there is a—the senate bill that will be making it very clear that, in fact, the woman has a right to refuse. So, I'm not doing anything that Dan Patrick over in the senate hasn't already done.

REPRESENTATIVE NAISHTAT: Isn't it true that several states have passed sonogram bills that give a woman the actual option to opt out?

CASTRO: Yes, 20 states to be exact. Oklahoma is the only state that made their bill completely mandatory. So, only one of the 20 states have made their bill completely mandatory and three years later, their legislation is still held up in court. It's never taken effect because it's still lost in the judicial process.

NAISHTAT: Thank you. Tell me, would this amendment make the state mandated procedure optional? Is it the intent of your amendment to create an opt-out provision?

CASTRO: No, it isn't. You know, it's clear that an opt-out provision is not acceptable to the author of this bill. This bill will simply let a woman know, up front, that she has a right to refuse to see or hear the sonogram that's mandated by the bill, which is the intent of the author to begin with. Remember, Representative Miller is saying that there's no penalty if she decides not to. I'm simply asking that we let her know right away at the beginning that she has a right to refuse, which is consistent with what the senate is doing.

NAISHTAT: So, what you're saying is that **HB 15** already states that hearing or seeing the sonogram is optional?

CASTRO: That's right. That's right. At the end of the bill, it says there's no penalty if she refuses.

NAISHTAT: This is about informing a woman of her rights in a timely manner?

CASTRO: Absolutely.

NAISHTAT: It's a good amendment.

[Amendment No. 8 was tabled by Record No. 68.]

[Amendment No. 9 by Martinez was laid before the house.]

MARTINEZ: **HB 15** mandates that any facility that has provided free sonogram services cannot provide abortions in any way or be affiliated with the procedure. This effectively rules out the hospitals, clinics, and regulated abortion facilities which have the medical professionals who can handle any crisis that can occur when a sonogram is being performed. Instead, women will be forced to go largely to unregulated facilities in order to receive a free sonogram. Therefore, all I ask in this amendment is that if a woman is to receive a sonogram at one of these free sonogram clinics, we ensure that these clinics will provide a licensed sonographer. So no matter where the sonogram is received, it is only right that this licensed professional perform the procedure. And that is mainly what my amendment does.

FARRAR: Mr. Martinez, are you telling me that women are getting sonograms from unlicensed folks?

MARTINEZ: Well, Ms. Farrar, currently in the State of Texas we do not license—or the State of Texas does not license or register the profession of diagnostic medical sonographer.

FARRAR: So how does that work?

MARTINEZ: Well, most sonographers who are employed in credible medical facilities are registered with the American Registry for Diagnostic Sonography and, thus, they have registered diagnostic sonographer credentials. However, the credential is highly recommended but not necessary. And it's not necessary to be a registered sonographer. So, to answer the your question, the state does not regulate, nor does it license sonographers, and the national level certification is not recommended—is recommended, but not required.

FARRAR: Okay. So I'm just wondering, I mean you can imagine you have to have some sort of training because an ultrasound device is a heat machine and I can imagine—and I've actually heard that it could actually cause damage to a fetus if it's used improperly.

MARTINEZ: Well, that's correct, Ms. Farrar, because anybody who is going to be performing any type of diagnostics should be trained and certified. In order for you to provide any type of emergency medical service here in the State of Texas, you must be certified as an EMT or as a medic. In order for you to—to start an IV on a patient you must be trained and certified to do that. In order for you to intubate a patient on out on the field you must be trained and certified to do so. So all we are saying is if a person is going to be using—doing any type of sonography, they should be trained and certified in the State of Texas.

FARRAR: Right, because I've had the concern in the past; people, for all sorts of reasons, not just at different facilities where women are seeking advice or counseling about abortions, sometimes if you've seen—maybe you haven't, but couples will get an image of the fetus because, you know, it's a great time, and it's something to show the family, and it's the beginning of the baby album. But I

have been concerned because, as I have said before, that if you have—it is a heat device and used improperly or used excessively or something could actually cause harm. I am concerned about the use of medical equipment, and what this bill does, and is in a way that is not medically prescribed.

MARTINEZ: What concerns me, Ms. Farrar, is that who is not medically certified to be able to provide this procedure; even though at a national level they may be certified, or it is recommended, but is not required here in the State of Texas. So I would like to see that we can have some sort of certification here in the State of Texas to say that you are certified to utilize this type of equipment, in order to provide a sonogram.

FARRAR: So your goal then is that it alleviate the concerns that I have had in the past, which is, that the procedure is done by someone that's trying to do so in a safe way, in her best medical interests and so on; is that correct?

MARTINEZ: Absolutely. Let me just get on to something here: In addition to that, as a national registry paramedic, you are certified at the national registry level but, in order for you to provide emergency medical services in the State of Texas, you must still register and certify yourself here in the State of Texas so you could provide that level of service. So all we're saying is yes, if you're certified at the national level, we should have some sort of certification for you to do that, so people could feel comfortable and know that you are certified when you are providing that type of procedure.

FARRAR: Right.

[Amendment No. 9 was tabled by Record No. 69.]

[Amendment No. 10 by Walle was laid before the house]

REPRESENTATIVE WALLE: Members, there has been a lot of discussion this session about unfunded mandates on counties and school districts. This amendment assures that Texas does not place an unfunded mandate on individuals and their health providers. **HB 15** promises free sonograms, but there is no guarantee that these free services will be available in a particular locality from a nationally registered sonographer. This amendment stipulates that the state will pay for the sonogram if the cost accrues to the patient. The Department of State Health Services will be charged for the procedure in an amount not to exceed the reimbursement rate set by the department. I've heard lots of complaints about the federal government making you buy health insurance. Well, what the if the government went further and told you and your doctor which medical procedures to have—would you want the cost to come of your pocketbook? If we want the government to butt out of our personal affairs, then let us be consistent. Members, I think it's only fair that if we mandate a new procedure, we not pass the costs on to patients. I move adoption.

REPRESENTATIVE ALLEN: Representative Walle, does this bill assure that the patient does not pay?

WALLE: Well, the issue is that we're trying to provide an opportunity for women to have a free sonogram, because this is mandated by this body.

ALLEN: Is there a fiscal note to this bill?

WALLE: Apparently there's no fiscal note to this bill.

ALLEN: Somebody pays. Then who is paying for these sonograms?

WALLE: Well, the understanding is that they are free sonograms.

S. MILLER: Mr. Speaker and members, I have great respect for Representative Walle, he brought this amendment to me yesterday and we discussed it. I understand what he is trying to do. There is no fiscal note on the bill, he is correct. But we in the State of Texas we perform about 80,000 abortions per year and we are—what he is asking to do is that the state pay for all of these sonograms that average a hundred dollars apiece; so this is going to be an $800,000 fiscal note. I will be glad to yield.

DUKES: Chairman Miller, does the bill have any provisions that allows for a woman to acquire a sonogram from an entity that does not charge?

S. MILLER: Yes, it does.

DUKES: And if—and are they required to provide a list of those organizations.

S. MILLER: That is correct.

DUKES: Are you familiar with the requirements under the Health and Human Services Code that a list of Medicaid providers be made available to any individual that is in need of a Medicaid—of a doctor who accepts Medicaid?

S. MILLER: Okay, yes.

DUKES: Are you familiar with that, or are you taking my word for it?

S. MILLER: I'm taking your word for it.

DUKES: Okay. Thank you for taking my word for it, because I put it in statute, because there were questions about whether or not they were physicians who would accept Medicaid. It so happens that the lists were made available. Are you aware that even though these lists were made available, many of the physicians on this list for Medicaid were not accepting patients, and those patients could not find a provider?

S. MILLER: I have found that to be true in my district, in doing constituent work.

DUKES: That's unfortunate, isn't it?

S. MILLER: It is. It is.

DUKES: So what provisions are made in your bill when alleged providers who are to provide free sonograms don't provide them the same way the list for Medicaid is not providing the list of doctors who really accept Medicaid patients?

S. MILLER: Could you restate that? I'm not sure—I—there's a lot of noise up there.

DUKES: I know, cacophony is bad. What does a woman do who would need the services of a free sonogram if the list is provided to her and there's not an entity that would provide a free sonogram?

S. MILLER: Well, I haven't seen the list yet, but I do know what's on the list. The list is to be provided to every service in the county, or surrounding counties, that provide a sonogram service free of charge. Most of those are going to be nonprofits.

DUKES: That's very similar to what that Medicaid list that individuals in your district are not able to find a Medicaid provider. So, what would happen, your bill states that an individual would have to have the sonogram somewhere between 42 to 78 hours prior. What happens if they cannot find an entity anywhere that can provide a free sonogram?

S. MILLER: Well, actually, even the sonogram that is provided by the free entity can't—it most likely would not be used by the abortion provider, because of liability reasons. The doctor at that clinic would want to perform his own sonogram. But, right now, it's a standard medical procedure prior to the abortion procedure to do that.

DUKES: So if the sonogram from a free entity cannot be utilized, what's the point in having a list of free sonogram providers?

S. MILLER: What we want to do is make sure that a woman is fully informed, that she does receive that list if she wants to have a free sonogram prior to making her final decision to have the procedure done. She can go and have that at no cost. It's not mandatory, but—

DUKES: She could have it at free cost some place else, but it couldn't be used when she goes to have—

S. MILLER: That's correct.

DUKES: So she's going to be mandated to have it at the time that she goes in?

S. MILLER: She is now. It's the standard medical procedure now.

DUKES: And because it's not going to be free when she goes into the doctor's office, or is it going to be free when she goes to the doctor that's going perform the procedure?

S. MILLER: Whether this bill passes or not, current standard medical practice is that they perform that sonogram.

DUKES: And who pays for it?

S. MILLER: She is required to pay for that.

DUKES: So, okay, so you're pushing an unfunded mandate that she has to have a medical procedure, one that you probably oppose in the Patient Protection Act from the federal government on health care, but you're going to require it to be done in this procedure?

S. MILLER: Well, actually the procedure—the sonogram procedure is already being performed. What the bill does is require that the information from the sonogram be made available.

DUKES: But you're going make it mandatory that she has to have it and you are going to make it cost prohibitive, if it is her choice to go through with this procedure, to force additional cost on her?

S. MILLER: Actually, there's no additional cost. She's already bearing the cost today, even though this law is not in effect of the sonogram.

DUKES: But you're making it mandatory that this be done?

S. MILLER: We're making it mandatory that the sonogram result be made available to her, along with a description of it. Plus, if there's an audible heartbeat, that be made available, too.

DUKES: Mandated that she would have to have these things, like an unfunded mandate?

S. MILLER: That they would be available to her for viewing, yes.

DUKES: I don't understand why you have a free list if it can't be used. Can you explain that to me?

S. MILLER: Well, we would hope that the lady would go there, view the sonogram, and that would defray the expense if she decided not to have the procedure, she would not be out any money. If she doesn't go to the free facility and she decides to have it done at the abortion provider, she would have to pay for that, even though maybe she changes her mind and doesn't have the procedure done.

DUKES: So it's more for persuasion of her mind-set?

S. MILLER: It's a cost-saving measure and it's just another piece of information that we use—want to use on the bill that makes sure that she's fully informed that those services are available. It's not mandatory.

DUKES: If your bill does not have a fiscal note, how is it a cost-saving measure? How does it factor as a cost-saving measure?

S. MILLER: The bill does not have a cost saving to the state; the savings I think you're referring to would be to the woman. She would, obviously, receive a free sonogram, if she so chooses.

DUKES: Okay. We could go in circles. But you're already aware of people in your district as it relates to those who accept Medicaid really don't, and they can't find a provider that does so.

S. MILLER: Actually, I live in a very rural district and there are many nonprofit agencies that offer pregnancy counseling and free sonograms. I live in a small town, but there's actually one there. Pregnancy Crisis Center does this now in my hometown of Stephenville.

DUKES: Pregnancy Crisis Center?

S. MILLER: Yes.

DUKES: They have telephones. I don't think that they have the transvaginal ultrasounds.

S. MILLER: They do ultrasounds there.

DUKES: The ones that I have researched don't necessarily do so. Thank you for answering my question. I understand it's now just a tactic just to try and frighten the woman into not having the procedure, as though she didn't already have the mental capacity to make the decision.

S. MILLER: Well, I respectfully disagree, but thank you for your comments. Move to table.

WALLE: When the state mandates a medical procedure, like vaccinations for children, generally we make funds available to support that activity. Last session we appropriated about $57 million for immunizations. I would also add that these sonograms are medically unnecessary and do absolutely nothing to improve the health of a patient. I think for all of us over the detrimental health affects of abortion, the only abortions that are proven dangerous are those performed outside the supervision of the law, as all abortions were before *Roe v. Wade*. With that, Mr. Speaker, I move against the motion to table.

[Amendment No. 10 was tabled by Record No. 70.]

[Amendment No. 11 by Hernandez Luna was laid before the house.]

HERNANDEZ LUNA: This amendment provides the woman the discretion to opt out of the sonogram bill. The current law, we have the Woman's Right to Know that was enacted in 2003. It's this pamphlet that a woman receives 24 hours prior to the abortion, and these are 22 pages that provide the woman with information on the risk of the abortion, the risk of carrying the pregnancy to full term, options they have, information on public and private adoption agencies, and it also goes into the characteristics of the unborn child. It includes the description of the growth and development. It also includes pictures, sonogram pictures, of weeks four, six, eight, throughout the pregnancy. So, I believe women are well informed and have the capacity to make this decision after they consult with their doctors, and should be able to waive. And the amendment includes the language for that waiver.

FARRAR: Since this is not a medical—medically necessary procedure, why is the state mandating that it become one?

HERNANDEZ LUNA: I am unsure. We have a couple, I think two or three medical professionals in the house. But, other than that, I don't think that I, as state representative, or that the state should mandate a medical procedure. And, in fact, the medical associations are against procedure specific requirements.

FARRAR: Is the woman at any time allowed to express that she doesn't want to receive these materials?

HERNANDEZ LUNA: This is going to clarify. We've had a lot of discussion today about the woman having the option to opt out and not receive this information. Well, this will make it very clear and empower the woman to make that decision for herself on what will be done to her body.

FARRAR: So, the argument has been about informed consent. So, you're making sure that a woman has all the options and not just half truths, is that correct?

HERNANDEZ LUNA: That's right. That's why I referred to the Woman's Right to Know as the informed consent. It's 22 pages of information of what they're going to go through for the pregnancy, about the risks. And so there—I believe they're well informed when they come in and they have to wait 24 hours to allow them enough time to review this material.

[Amendment No. 11 was tabled by Record No. 71.]

[Amendment No. 12 by Lucio was laid before the house.]

LUCIO: Members, here's my concern with this amendment. What this amendment does is the state shall pay—this is—I'm just going read it. The state shall pay the cost providing the service required under Subsection A at no cost to the pregnant woman. If the woman's residence is not located within 45 miles of a health care provider facility or clinic in the list described by this Subsection 171.05283. Think about this, members, for very underserved areas like the border, like Brownsville—I was speaking to some of my providers. I don't think there's somewhere that they can get a free sonogram that is not—that is within the 45-mile radius. Those of us in rural areas, think about our lack of infrastructure health care, and if we're going to require that the woman get this in order to make this informed decision in cases where she truly has no accessibility, and if she does then she does not qualify, then there's no problem. But in cases of where she does not have accessibility we will pay for the cost of this. This is going to—I understand the purpose of the bill. I understand that information is good. But, why are we going to trap a woman into not being able to make this decision if she cannot afford a sonogram? All this is saying is that within a 45-mile radius she cannot get a free sonogram, which is the basis of what they are saying—there is no fiscal note—then she would be able to qualify for state funding of a sonogram.

FARRAR: It seems to me—did you hear yesterday when Mr. Miller said that he would put money over life any day? I mean—I'm sorry, the opposite. Forgive me. He would put life over money any day? So that falls in line with that sort of thinking.

LUCIO: I was here, yes, ma'am. And, again, all I'm trying to do is not prevent that this information be shared. But in cases, especially in rural areas, underserved areas where we have very little medical infrastructure—not all of us are from Houston, Ms. Farrar, and I think that's great that you have so many services available to your constituents. Some of us are from areas where this is not readily available. And, unfortunately, if they say they're going to get, require this, why not assist them in getting the information that they so desperately want that woman to have?

FARRAR: So you're really trying to make the bill less burdensome, correct?

LUCIO: That's correct.

FARRAR: To pass constitutional muster, correct?

LUCIO: That's correct.

[Amendment No. 12 was tabled by Record No. 72.]

[Amendment No. 13 by Dutton was laid before the house.]

REPRESENTATIVE DUTTON: Members, this bill has been advertised as the Woman's Right to Know bill. But I think, if you look at the bill, one of things you realize is that it's about changing a woman's mind, because the people sponsoring the bill want this to be about a child's right to live. And what this amendment simply does is says that if the woman changes her mind, who has already gone to the abortion clinic to have an abortion, if she changes her mind as a result of having to go through these procedures, then there's a benefit that the state provides. And what this amendment says is that the benefit is that we would pay for this child's college tuition. And I move passage.

[S. Miller moved to table Amendment No. 13.]

DUTTON: I wish I knew why Mr. Miller chooses to oppose this amendment. As a practicing Catholic, I don't really believe that abortion ought to take place. As a member of the state legislature, however, I didn't come here just to represent my faith. But my faith tells me this: that if a woman chooses, as a result of what we've provided that she should go through, if a woman chooses to change her mind and say look, I want to have this child. I think that after looking at the sonogram, after discussing this with my doctor, I think it's important that I go ahead and change my mind and have this child. And if she does that I wonder if the state's obligation to that child ends at that point. This amendment says it doesn't. This amendment says the state's obligation doesn't end at the point in which she changes her mind and chooses to have this child. And I don't know whether this would affect one, two, or five thousand children. I have no idea. But I do know that for a woman who changes her mind that this legislature ought to say to that woman, thank you. But we ought to say more to the child. We ought to say to the child that we not only respect and encourage your right to live, we will actually provide another benefit. We'll provide a benefit that says if you are responsive enough to now move to the point where you can go to college in the State of Texas, or to a university in Texas, we're going pay for that. I don't think that's too much to ask, members. I mean, if we want to make sure that every child is born we ought to make sure that every child has a chance. And that's what this amendment does. And I would ask you to vote no on the motion to table.

[Amendment No. 13 was tabled by Record No. 73.]

[Amendment No. 14 by Dutton was laid before the house.]

DUTTON: Well, the first vote was with your heart. Sorry, I'm wrong, I changed my mind. The first vote was with your head. This is a vote that you can make with your heart, because what it says is that what the state's responsibility to the child, to the woman who changes her mind, is that we'll provide health care to that child until that child's 18th birthday. I don't think that's too much to ask, members. I don't think that's too much to ask because, let me tell you, we're asking a person to make a most difficult decision. I don't know why the woman

ended up at the abortion clinic, and perhaps that's even unimportant to the issue we're trying to decide today. But I do recognize that one of the reasons to do this is to encourage, if not insist, that women change their mind after getting to the abortion clinic so that they will choose to have the child. I think it's incumbent upon us; if we're going to do that and we're going to encourage the woman to have the child, we ought to also recognize our obligation to that child. And so what this amendment does is simply says if, after being provided with the sonogram and the information required, the pregnant woman chooses not to have an abortion, that the state shall provide, at no cost, health care for the unborn child until the child's 18th birthday. Mr. Speaker and members, vote with your heart. Vote for this amendment.

S. MILLER: It pains me greatly to go against my friend, Mr. Dutton. But I'm going to have to move to table.

DUTTON: And I know Sid said he regretfully does this and I know he probably does. Because what this amendment does is this amendment says more about us than it says about the woman who is at the abortion clinic. And what it says about us, if we choose not to do this, is that we really don't care whether this woman chooses to change her mind or not, that this is about something else. And what I'm trying to say to you today, members, is let's don't make it about something else, let's make it about real children. Let's make it so that if a child comes into this world, and certainly comes into this world by way of us having encouraged, if not actively participated in that child coming into this world, we ought to be willing to stand up and fess up and say to that child and to that mother we will take care of this child, at least provide the health care for the child. Because, if we don't, what are we saying about us? What we're saying is that well, we want to see all of these children around, but the State of Texas ends its obligation to that child from the time that child is born. We want it born, but we don't want to do our duty to take care of the child, at least to provide health care. I wish I knew why Mr. Miller didn't want this amendment on there, but all he did was move to table. Let me ask you members, let me ask you, really: look beyond party, look beyond politics, look beyond personalities. Look at the child. Imagine today, that because of what we did here today, the woman tomorrow decided that I am going to have this child. And then she comes to the lobby out there and says—she comes and stands out there where the lobby is and sends us all a note saying, "Can you come out for a minute? I need to talk to you about the health care for my child. I need to ask you to come and let me show you what you did. You encouraged me to have the child. I have him. I brought him to you here at the legislature." And, yet, nobody in this room decides to go out. And when you do, you turn your head and you look the other way and you never look at the child. Voting against this amendment is essentially what you do. Means you are saying, yeah, I want this woman to have the child but I want absolutely—Texas—the State of Texas to have absolutely nothing to do with it beyond causing it to be born. I think, members, our obligation as statesmen, our obligation as legislators, but our moral obligation as human beings tells me that we are to say no on the motion to table. And I'll be happy to answer any questions, Mr. Speaker.

REPRESENTATIVE TURNER: Just very briefly, Representative Dutton—basically you're saying that we ought to take care of all our children?

DUTTON: Absolutely.

TURNER: Those that's unborn as well as those that are born?

DUTTON: Especially since—Mr. Speaker, what we're doing is encouraging it to be born. Because what this legislation is designed to do is to change a woman's mind. Because, remember, because this legislation only applies once she shows up at the abortion clinic. It doesn't start at church or home or someplace else. It only becomes effective from the time she gets to the abortion clinic, which means she's already made a decision. And what this legislation attempts to do is to somehow or another not interfere, necessarily, but I'll accept their statement, to provide more information to the female in hopes that she changes her mind. And what this amendment does is say, if they're successful—if we are successful in changing her mind then why wouldn't we provide health care to the child?

TURNER: I think, Representative Dutton, we will have an opportunity very shortly to see whether or not the board will light up a hundred and one when we are voting on the appropriation bill to fund those children that are already born.

DUTTON: Well, I—and that's another issue, Mr. Speaker, because I think that what we have is an obligation to children. One of highest obligations we have in this house is to the children of the State of Texas. And if today we say good, we think it's great that a mother went to an abortion clinic and changed her mind, but after that, we'll decide not to look at these children, we'll decide to assume that they somehow or another they became invisible. Well today, members, I don't think we ought to be invisible. I think today each one of us—each one of us—the moral vote is to vote no on the motion to table. And, other than that, I suppose you can do what you'd like.

[Amendment No. 14 was tabled by Record No. 74.]

REPRESENTATIVE MARTINEZ FISCHER: I've been listening to the debate and been paying attention and been involved in some of the discussions on the floor with the members, trying to work through some of the more contentious points of this bill. And I wanted to ask you some questions about the definition you put in this bill on medical emergency and the amendment that you added to this bill to change that definition ever so slightly. And my question is I wanted you to tell me how you knew how many times the word medical emergency was used in various subchapters from the Agriculture Code to the Water Code.

S. MILLER: I believe Representative Anchia stated earlier that it was 26.

MARTINEZ FISCHER: I believe it is 25, maybe 26.

S. MILLER: Twenty five. I'll give you that.

MARTINEZ FISCHER: Now, do you know whether or not in those 25 references is there a definition of medical emergency that goes along with the reference in that subchapter?

S. MILLER: I know one of the members brought me three different definitions a while ago, so it kind of—it's not entirely consistent all over.

MARTINEZ FISCHER: Well, I haven't been able to find any. So I'd be curious, if any of those members are still here and they're paying attention, I'd love for them to come show me those definitions, because I can't find one. But in those 25 references, I found about eight references in the Health and Safety Code, and we're here on the Health and Safety Code. So I'd like to give you copies of that if you don't mind.

S. MILLER: Sure.

MARTINEZ FISCHER: Representative Anchia is going to bring you copies of the Health and Safety Code, and I've tabbed for you the areas that I want to inquire with you on to—

S. MILLER: Would you pardon me just a minute? I left my bill on my desk.

MARTINEZ FISCHER: Yes, sir. No, no problem.

S. MILLER: Okay. I'm ready.

MARTINEZ FISCHER: Thank you. I was looking at Chapter 81 of the Health and Safety Code, and it's on page 367. Just tell me when you're there. I think it's the first yellow tab that you may have.

S. MILLER: Could you repeat that notation?

MARTINEZ FISCHER: Yes, sir. At page 367 and it's Section 81, Chapter 81 entitled Communicable Diseases.

S. MILLER: Okay. I'm there.

MARTINEZ FISCHER: Okay. At Subsection 5, at the top of the paragraph, it says, "To medical personnel, to the extent necessary in a medical emergency to protect the health or life of the person identified in the information." Did I read that correctly?

S. MILLER: That's verbatim.

MARTINEZ FISCHER: Okay. At page 349 and, where the other yellow tab is, that subchapter, that's where the definitions are for that subchapter. And I want you to tell me if you see a definition for medical emergency in 81.003 at page 349.

S. MILLER: Let's see. There's definitions of the health authority, health professional, health department, public health district, public health disaster, reportable disease, resident of the state, school authority. I don't—no, I don't think there is.

MARTINEZ FISCHER: I don't think there's one either. I would submit to you that I don't believe that there's one. If we go on to Chapter 84, which is at page 483, and it's a—Chapter 84, dealing with occupational conditions. And there's a section on confidentiality at the 84.006. Tell me when you're there.

S. MILLER: I'm there.

MARTINEZ FISCHER: In Subchapter 3 it reads, "to medical personnel in a medical emergency to the extent necessary to protect the health or life of a named person." Did I read that correct?

S. MILLER: That's correct.

MARTINEZ FISCHER: And at page 480, at Section 84.002, in the definition section, I was looking to see if they defined medical emergency there and I couldn't find it. Or do you see it?

S. MILLER: I don't see it.

MARTINEZ FISCHER: Okay. So it's not there either. Going to Chapter 88 of the Health and Safety Code, in a section that deals with confidentiality also, at page 550, at Subsection 5, there is a section that says to medical personnel, to the extent necessary in an medical emergency to protect the health or life of a child identified in the information.

S. MILLER: All right. Yes, I believe it's addressing the confidentiality of the—

MARTINEZ FISCHER: And I was wanting to look at the beginning of Chapter 88 to see if there was a definition of medical emergency at page 548. I couldn't find that. I wanted to see if you could find it.

S. MILLER: I don't see one.

MARTINEZ FISCHER: And then in Chapter 92 of the Health and Safety Code, at page 575, another section dealing with confidentiality for injury prevention, there's another reference to Subsection 3 of page 575—says to medical personnel in a medical emergency to defend necessarily or protect the health or life of the named person. Did I read that correctly?

S. MILLER: Yeah, and it's also addressing confidentiality.

MARTINEZ FISCHER: Yes, sir. And at Section 92.001, in the definition section, there is no definition of medical emergency. I didn't find one. I don't know if you see one there.

S. MILLER: No, no, there's not one.

MARTINEZ FISCHER: I didn't see one either. At Chapter 168 of the Health and Safety Code, on the section dealing with students with disabilities, at page 603, there's a Subsection F, and it says, "an unlicensed diabetes care assistant may exercise reasonable judgment in deciding whether to contact"—

S. MILLER: Can you hang on just a minute? I'm not there yet.

MARTINEZ FISCHER: I'm sorry.

S. MILLER: What section and page, again?

MARTINEZ FISCHER: Section 603, Chapter 158, Section .008, Subsection F. It's almost at three quarters of the bottom of the page.

S. MILLER: Page 603?

MARTINEZ FISCHER: Yes, sir, of the Health and Safety Code. It might be a second—it might be the next book. I'm sorry.

S. MILLER: Oh, I don't have that book up here. The Health and Safety Code? Go ahead. You've got it. Tell us what it says.

MARTINEZ FISCHER: Well, I think you have it. If you want, Representative Anchia can help you find it. It'd be doing both of us a good favor. Well, it says on Subsection F that "an unlicensed diabetes care assistant may exercise reasonable judgment in deciding whether to contact a health care provider in the event of a medical emergency involving a student with diabetes."

S. MILLER: It was in the second volume?

MARTINEZ FISCHER: Yes, sir. On page 603, it said—

S. MILLER: Okay.

MARTINEZ FISCHER: Okay. Did you see it?

S. MILLER: Yes, sir.

MARTINEZ FISCHER: Okay. And at page 598, which is the beginning of Chapter 168, it says, "care of students with diabetes." There's a definition section and I was looking for the definition of a medical emergency and I didn't find one. I don't know if you see one.

S. MILLER: There's not one.

MARTINEZ FISCHER: Okay. And Chapter 171, which is the section—the chapter that deals with abortion, which is the subject matter which we are debating today.; At page 612, we have a section called voluntary and informed consent, at page 612, Subsection A.

S. MILLER: Okay.

MARTINEZ FISCHER: And it reads there on the very top, "except in the case of a medical emergency, consent to a abortion is voluntary and informed only if"—did you see that?

S. MILLER: Yeah, I'm following with you.

MARTINEZ FISCHER: Okay. So, thank you. I went to page 609, which is a definition of that section, at 171.002, and I couldn't find a definition of medical emergency. I don't see it on—I know you spent a lot of time writing this bill. Do you see a definition, page 609?

S. MILLER: No. Not on 609.

MARTINEZ FISCHER: Okay. Now, for the very first time, you are setting a new definition of what a medical emergency is in your bill. And I guess it's on **CSHB 15**, page 1, at lines 12 through 16, that's correct?

S. MILLER: On the bill?

MARTINEZ FISCHER: Yes, sir.

S. MILLER: Yes, that's correct.

MARTINEZ FISCHER: Okay. So, we have a definition for the first time in Section 1671.051 that you are proposing, and at 171 on that same chapter you do not have a prior definition. And so we're clear on that, correct?

S. MILLER: Okay.

MARTINEZ FISCHER: So at Chapter 241 that deals with hospitals, I came across another section in the Health and Safety Code, and that's at page 208 and at Section 241.154. Let me know when you get there.

S. MILLER: I'm there.

MARTINEZ FISCHER: At Subsection B it says, "except as provided by Subsection D, the hospital or its agent may charge a reasonable fee for providing the health care information, accept payment information, and is not required to permit the examination copying or release of the information until the fee is paid, unless there is a medical emergency." Did I read that right?

S. MILLER: I believe that's correct.

MARTINEZ FISCHER: So, now I went to Section 241.003, which is the definition section for that same chapter, and I couldn't find a definition for medical emergency. I want to know if you see one in the book that I provided for you.

S. MILLER: No, I do not.

MARTINEZ FISCHER: Thank you for bearing with me. This is my last one.

S. MILLER: That's okay. Take your time.

MARTINEZ FISCHER: On page 611, on another subchapter of the Health and Safety Code, on an issue dealing with mental health records at Section 611.008, Subsection B; tell me when you're there.

S. MILLER: Okay.

MARTINEZ FISCHER: Okay. At Subsection B, I'm going to read it. It says, "unless provided for by other state law, the professional may charge a reasonable fee for retrieving or copying mental health care information, and is not required to permit examination or copying until the fee is paid, unless there is a medical emergency." Did I read that one okay?

S. MILLER: Yes, sir.

MARTINEZ FISCHER: And at page 571—now, in that section, I'm sorry in Section 6—Chapter 611, there is no section that provides for definitions. If there was, it'd be at the beginning of the chapter. I didn't see one and you certainly can reserve judgment to look for yourself because I didn't see an expressed section. But I submit to you there that there is not a definition to medical emergency as it applies to Chapter 611.008, Subsection B. And so, finally, at page 571, there's a Section 595.005—

S. MILLER: Okay.

MARTINEZ FISCHER: —that deals with records. And at A1, it says, "medical personnel to the extent necessary to meet a medical emergency." Did I read that right?

S. MILLER: Okay.

MARTINEZ FISCHER: I couldn't find in that section either any definition or a definition section that even defines medical emergency. And I'll give you the opportunity to reserve answering that, because you might want to look for yourself. But there is no definition section, period, or anything. And so just in the Health and Safety Code, just to summarize, we have about 25 references to medical records or—excuse me, to emergency—to a medical emergency, we have 25 references to medical emergency from the Agriculture Code to the Water Code. I was surprised to know that there was one in the Agriculture Code.

S. MILLER: Don't count us Ag boys out.

MARTINEZ FISCHER: You know, I don't get to that section of the book too much, but I would certainly not ask you any questions about anything in that book. I would feel like you would take me to school. But 25 references, various subchapters, not one definition, eight specific references in the Health and Safety Code, no accompanying definitions. And, for the very first time, in your bill at page one, lines 12 through 16, you define medical emergency. And it's been the subject of a lot of debate. And that's what got me sort of curious, listening to the debate, wondering what all the fuss was because I thought a medical emergency was a medical emergency. But for the first time you defined it. And some argue you have limited it. And so, would you agree with me that that's a pretty far departure in our Health and Safety Code, to actually define a medical emergency, given the conversation we just had?

S. MILLER: The locations you just pointed out do not define them. I actually haven't had time to research it myself.

MARTINEZ FISCHER: So, this is the first time that you did it, and this is the first time that anybody in the legislature has ever defined it in the Health and Safety Code, do you agree with me?

S. MILLER: Well, I'm going to have to disagree with you, because I have three different sections here where it is defined, that Representative Phil King just provided for me.

MARTINEZ FISCHER: In the Health and Safety Code?

S. MILLER: Yes. And, actually, some of it's in the Family Code.

MARTINEZ FISCHER: Well, I'm in the Health and Safety Code, because at 25 references—but I'd love to see a copy.

S. MILLER: One is in the Occupations Code, Health Professionals. And this one deals with abortions. The other one is in the Family Code and deals with abortions and it defines medical emergency. And the third one is also in the Health Professionals Code of Occupation Code and deals with third trimester abortions.

MARTINEZ FISCHER: So, you have definitions for medical emergency in the code?

S. MILLER: Yes.

MARTINEZ FISCHER: In the Family Code?

S. MILLER: Yes, dealing with abortions.

MARTINEZ FISCHER: Now, I want to take a look at them in a minute. But in the Health and Safety Code, it's not defined?

S. MILLER: Not in there, as you pointed out. No, sir.

MARTINEZ FISCHER: Okay. So I wanted you to tell me where, in your bill analysis, did you define medical emergency. And I'm looking at it at page one. And you talk about medical emergency at page two and second to the last paragraph.

S. MILLER: In the bill analysis, under section one, it says—it adds 171.051—defines abortion provider, medical emergency, and sonogram.

MARTINEZ FISCHER: Now, on the section that defines—that exempts a physician to perform a sonogram, it says the bill creates an exception to sonogram requirements for a physician performing an abortion in a medical emergency, did I read that right?

S. MILLER: Where are you reading that?

MARTINEZ FISCHER: I'm on page two, second to the last paragraph, second section.

S. MILLER: Are you in the bill analysis or on the bill?

MARTINEZ FISCHER: Bill analysis, sir. Page two.

S. MILLER: Okay. Which paragraph are you on?

MARTINEZ FISCHER: Second to the last, second from the bottom.

S. MILLER: Section 6, where it talks about Section 6?

MARTINEZ FISCHER: It starts by saying—and I'm looking at the house committee report and it says—it's the second to last paragraph and it starts **CSHB 15** exempts the physician.

S. MILLER: I'm not sure that we have the same bill on that. Are you sure you are on the committee substitute and not the original—

MARTINEZ FISCHER: I have the house committee report. It came out of committee.

S. MILLER: Okay. I'm looking at the bill analysis. Didn't you ask me about the bill analysis?

MARTINEZ FISCHER: Yes, sir. And on the house committee report, it has the bill and then it has the committee action, the votes.

S. MILLER: Okay.

MARTINEZ FISCHER: Then it has the bill analysis. And the analysis that at least attaches the committee report that the committee put together, which really is a big deal around here, the bill analysis that was put together by the committee talks about—it talks about a medical emergency. I don't see where there's a definition of medical emergency, but I'll spot you that if you say it's there. But the second to the last paragraph, it mentions the exemption to the sonogram and it says the exception is created when there's an abortion pursuant to a medical emergency. But you've acknowledged—I don't necessarily know this, but you've acknowledged that we have several different meanings of medical emergency. I couldn't find any in the Health and Safety Code. You say there's one in the Family Code. You say there's one in the Occupations Code. Your bill analysis doesn't say which definitions we're going to use.

S. MILLER: Well, actually, it says my definition. The bill defines abortion provider, medical emergency, and sonogram.

MARTINEZ FISCHER: Well, I guess we—

S. MILLER: It states very plainly that the bill defines it.

MARTINEZ FISCHER: Well, it says the bill creates an exception is what it says.

S. MILLER: It's referring to the committee substitute to **HB 15**, the very bottom paragraph on page two.

MARTINEZ FISCHER: And this is the second to the last—

S. MILLER: No. This is the very bottom paragraph on page two.

MARTINEZ FISCHER: It says the bill defines abortion provider, medical emergency, and sonogram. That one?

S. MILLER: Yes. Defines abortion provider, medical emergency, and sonogram.

MARTINEZ FISCHER: Okay. And in the preceding paragraph, it talks about the exception. Would you agree with me?

S. MILLER: It talks about the bill. The bill requires a physician who provides an abortion in a medical emergency to include in the patient's medical record a statement signed by the physician certifying the nature of the medical emergency.

MARTINEZ FISCHER: Can you tell me that one more time? I couldn't find it, I was wondering if you could do it again.

S. MILLER: Oh, yeah. The bill requires a physician who provides an abortion in a medical emergency to include in the patient's medical record, a statement signed by the physician certifying the nature of the medical emergency.

MARTINEZ FISCHER: Right, but we don't—it doesn't define the medical emergency. It just says you have to state one, right?

S. MILLER: Well, it says the bill defines it. It's what the bill analysis says.

MARTINEZ FISCHER: But in that particular section does it—

S. MILLER: No. It's in the bottom section, the last paragraph where it says the bill defines medical emergency.

MARTINEZ FISCHER: Okay. But it doesn't define it there, correct?

S. MILLER: No. Not there. It talks about it in the next paragraph.

MARTINEZ FISCHER: Thank you, Mr. Speaker. I would also like to raise of point of order under Rule 4, Section 32(c) and Rule 4, Section 32(f).

READING CLERK: Representative Martinez Fischer raises a point of order against further consideration of the bill under Rule 4, Section 32(c) and (f) of the Texas House Rules and under various due process provisions of the Texas and United States Constitutions. Representative Martinez Fischer contends that the bill analysis accompanying the bill is materially or substantially misleading in that it fails to capture the effect of or conflict between the number of references to the phrase "medical emergency" contained in other statutory provisions. Representative Martinez Fischer also argues that the conflict between the definitions of the phrase "medical emergency" may raise issues conflicting with or violating due process provisions of the Texas or United States Constitutions. The chair thanks both parties for their thoughtful arguments.

The chair has reviewed the bill analysis and the bill. The chair believes that the analysis is not materially or substantially misleading. The bill analysis properly notes that the bill defines a "medical emergency" and properly notes that an exception to the sonogram requirement for a physician performing an abortion is a "medical emergency."

As to Representative Martinez Fischer's second point, due process violations, through many sessions, speakers have followed the plan of refusing to rule on constitutional points not related to legislative procedure by overruling the points directly then passing them on to the house for determination, in effect, on the vote involved. I will continue the plan. Accordingly, the chair respectfully overrules the points of order.

MARTINEZ FISCHER: I also raise the point of order under Rule 32, Section (f), it was up on the board. I didn't hear it read by the clerk. I don't know if the parliamentarian had an opportunity to review the rule based on that. If he did, I'll take him at his word, even though it's not in his ruling. I just heard Rule 32(c).

CHAIR (Representative Branch in the chair): And the chair's ruling, Mr. Martinez Fischer, the ruling states that the bill analysis is not either materially or substantially misleading. That's the standard for Subsection (f). We'll revise our ruling to reflect that.

MARTINEZ FISCHER: Thank you, Mr. Speaker. I'd just like to have the actual section for clarity, so that members will know for precedent what section we're referring to when we say that. Mr. Speaker, I would respectfully request that we have your ruling reduced to writing and placed in the journal.

[Amendment No. 15 by Dutton was laid before the house.]

DUTTON: I've appreciated the delay. It gave me an opportunity to talk to some of you all and I appreciate your comments in regards to the previous amendments that I have. This amendment is not a whole lot different, except it only relates to the health care of the child once the mother changes her mind as a result of the

sonogram. And going through all of the other information that's contained in the bill, I initially had an amendment that said we would—since you voted down the argument about 18-year-olds, I had one amendment that said 17-year-olds. And I decided that well, if you didn't like 18-year-olds you probably weren't going to like 17-year-olds. And so then I had an amendment that said 16-year-olds. And I decided that if you didn't like 18-year-olds and you didn't like 17-year-olds, you weren't going to like 16-year-olds. And so then I had another amendment that said 15-year-olds and I figured that if you didn't like 18-year-olds, and didn't like 17-year-olds and didn't like 16-year-olds, you weren't going to like 15-year-olds. And so I decided against having a amendment for 14-year-olds because I decided that if you didn't like 18-year-olds, and you weren't going to like 17-year-olds, you weren't going to like 16-year-olds, you weren't going to like 15-year-olds, you certainly weren't going to like 14-year-olds. And so I had an amendment for 13-year-olds, and then 12-year-olds, and then 11, and then 10, and then nine, and then eight, then seven, but I changed it. What this amendment addresses is the life of the child from birth to six years old, and just simply says that we will provide health care for that child. That's all it does. I believe that if we are going to inject the State of Texas into a decision that a mother makes, and by following the edicts in **CSHB 15**, she elects to have that child, I think the responsibility for the State of Texas begins when that child is born. It doesn't end when that child is born. And what this amendment does is simply says that—and I know you didn't like 18-year-olds, and I suspect that some of you probably did like it but I'm not sure you're yet voting with your head or your heart, but voting with your head. And I respect that. But there is an amendment to the amendment, Mr. Speaker, and I would ask for the amendment to the amendment at this time.

[Amendment No. 16 by Raymond to Amendment No. 15 by Dutton was laid before the house.]

REPRESENTATIVE RAYMOND: Members, this amendment to the amendment simply strikes—on line four, where it says, "Health Care for Unborn Child," and substitutes "Texas Pro Life Health Program." I move adoption and ask for a record vote.

REPRESENTATIVE BRANCH: So you're trying to insert some language into Mr. Dutton's amendment?

RAYMOND: That's what an amendment to an amendment does.

BRANCH: You're putting language in that just creates a name, a title?

RAYMOND: No, it has a name already and I changed it to this.

BRANCH: And tell me, can you again say the name?

RAYMOND: Sure. What it says right now is that the amendment says currently "Health Care for Unborn Child." I strike that and insert "Texas Pro Life Health Program."

BRANCH: Okay. So you're attempting to put some language in that has a certain connotation in order to create a vote against it?

RAYMOND: No. I think that language accurately describes what the amendment is doing.

BRANCH: Do you spell pro life, is that one word or two words?

RAYMOND: It's two words in my world.

BRANCH: Is it capitalized or not capitalized?

RAYMOND: Well, actually they capitalize the whole thing, because it's the beginning of the section.

BRANCH: So, are you trying to put some language in that causes people to be appearing to vote against something because you've named it pro life?

RAYMOND: No.

BRANCH: Okay. Thanks.

RAYMOND: I don't expect anyone to vote against it. I expect this to pass 149.

[Amendment No. 16 failed of adoption by Record No. 75.]

REPRESENTATIVE BERMAN: Mr. Dutton, in your amendment, aren't we already doing that for any child that is born live, if the mother does not go through with the abortion and the child is born live isn't that child either on Medicaid or CHIP, eligible for Medicaid or CHIP anyway? So the state is taking care of that child in any case.

DUTTON: Well, that's—I wish that were the case.

BERMAN: Why isn't it?

DUTTON: Well, because, as you well know, we don't fully fund CHIP and we certainly don't provide all of the support for Medicaid. One of the things that I'm just trying to do, generally, is I think it's incumbent upon us if we are going to interfere and inject the State of Texas into this decision with the whole idea being to change the woman's mind—because you've got to remember, as I said before, she's already at the abortion clinic. And now, what we're doing with **CSHB 15** is an attempt to change her mind. And I'm hoping we're successful. But I don't want us to get off the train at that point. I want us to stay on the train, particularly regarding health care, until that child gets to be six years old. And if, in fact, what you say is true— it's not; I wish it were—but if it were true, then this amendment would essentially have no effect at all.

BERMAN: I really appreciate what you're trying to do, Mr. Dutton, but if a child is eligible for Medicaid they'll go on Medicaid. If a child is not eligible for Medicaid because of too much money made by his mother or his family, then he can get into the CHIP program as well.

DUTTON: But this amendment now, this bill, you got to understand, is not relegated only to the mothers who have abortions who are on CHIP or Medicaid.

BERMAN: I understand.

DUTTON: This covers the wide gamut of everybody who happens to be on Medicaid. And so to the extent that the mother shows up and we change her mind about the abortion, she chooses to have the child but she has health care already, but well then obviously this wouldn't affect that. This really would only affect those small percentage of the cases where the mother elects to have an abortion initially, changes her mind because of what we've decided to do and then has the child, but can't provide health care for that child. That's the only situation that this amendment seeks to address, and I think that's the only place where that particular person would either benefit by virtue of passage of this amendment.

BERMAN: Well, I appreciate what you're trying to do, but what would prevent any woman from going into an abortion clinic and then changing her mind and then having a child? Of course, she had it in her mind before that she's going to go on state health care, and that's just a way for anybody to go on state health care, automatically. Automatically. Once they find out how to do it, they're going to do it. But I appreciate you—

DUTTON: Well, I'm not sure I agree with that. That'd be like offering free airline tickets for people to go to prison. I don't think most people would go to prison to get the free airline ticket. I just can't conceive of a situation where a mother would choose to go to an abortion clinic, and all the things that you have to do to just get there, and then change her mind about the abortion, simply because we're going to do health care. I just don't think so.

Members, let me ask you to take a look at the amendment. What this amendment simply does, it says, as I said before, it says more about us than it does about the mother or this child. It speaks volumes about us when we say to ourselves that we don't care about the health care of this child, we just simply want the child born. Now, I, you know, I hate to use analogies in the Bible, because I know there might be some people here who don't believe in the Bible. But I happen to believe in the Bible though. But, you know, most of us respond the same way the innkeeper responded at the birth of Christ. You know, today you're trying to say let's put them out in the barn, let's put them somewhere else. I don't want to have to think about what we need to do with this child after this child is born. And so, let me ask you to forget about the partisan stuff; let me ask you to forget about the personal part of this, and let me ask you to think about a mother in a situation where she shows up at the abortion clinic, she doesn't really want to do it, she really doesn't want to have the abortion. She's uncomfortable about having the abortion. If she could, she'd choose another avenue. But the state steps in and says okay, we'll help you choose another avenue and we're going help you, because we're going to require you to have the sonogram. We're going to require you—give you an opportunity to look at it. We're also going to provide you all this information about what happens with a child. Wouldn't it be wonderful if we could say to that mother, "Look, if you really have this baby, the state will provide health care at least until the mother is—I mean until the child is six years old." It just boggles my mind how we, in this house, and I assume nobody in this house has ever been faced with that decision. I know most of the men have never been faced with it and you won't ever have to be faced with it. I hope that even the women in this house, if they've ever had to be faced with it,

would have elected to do the same thing that I would suggest from my church values. But I don't want to sit here and impose that on somebody and say look, just as I do at my church, if we have a ministry that ministers to young women about having an abortion, that's not where the church's obligation stops. We have to provide other information. We have to provide other assistance and other health to that child. And so today, members, I'm asking you to step up to the plate and provide the health care to the child of the mother who decides to have the child. And all I'm asking is that we provide that health care until the child is six years old.

[Representative S. Miller moved to table Amendment No. 15.]

DUTTON: Members, I'm not going to belabor the point. Mr. Miller has moved to table the amendment. But, if you vote with Mr. Miller you are not just voting to table the amendment. What you are voting to do is to say to the mother that while we want you to have this child, we don't want to have anything to do with it after it's born. I think that's an advocation of our responsibility as legislators on the one hand. But, on the other hand, I'll leave it to your moral convictions to let you decide how to vote on this. And so if your moral conscience tells you that we are to abandon this child then vote with Mr. Miller. But if you decide today that I want to make sure that my moral commitment doesn't begin and end when I have changed this mother's mind, it begins when the child is born. And so I would ask you again to vote no on the motion to table.

[Amendment No. 15 was tabled by Record No. 76.]

[Amendment No. 17 by Marquez was laid before the house.]

REPRESENTATIVE MARQUEZ: This amendment will require a physician to inform the woman of the right created by this amendment to allow women to require the vasectomy of the father through a court order. This is allowed only—wait, let me get through this. This is only allowed after the woman views the sonogram and chooses to continue the pregnancy. And if the pregnancy occurs outside of marriage and the man has previously fathered two or more children outside of marriage with two or more women—members, this is a very—thank you. This is a very straightforward amendment. Both parties in unplanned pregnancies should hold responsibility and this is a way to ensure that that occurs. If we are to decide the government should be making invasive policies, then that standard needs to apply to both men and women. A doctor and the patient should have the right to make decisions about what procedures a person should have on their bodies, not the government. Unfortunately, if this legislature insists on cutting access to family planning, taking away health care from low income men and women, and denying a student basic education in health classes, then we will be forced to resort to more invasive and extensive means to prevent unplanned pregnancies.

S. MILLER: Mr. Speaker and members, we've had a lot of input from our constituents about the budget this time and about the number of cuts that we're doing, so I'm going to have to draw the line at this point and say no more cuts and move to table.

MARQUEZ: I vote—I ask that you vote against the motion to table. This is a very, very simple amendment. It is on page 6, between lines 16 and 17. The exclusion for the men is that they are married. If this is a widower who remarries or somebody gets divorced and remarries, then they are not subject to this particular bill. If you don't want government coming between patients and doctors you should reject this amendment and **CSHB 15** in tandem. If you do believe the government should be making medical mandates, then we ought to add this amendment and divide the responsibility evenly. What's good for the goose is good for the gander. And, with that, I close.

[Amendment No. 17 was tabled by Record No. 77.]

[Amendment No. 18 by Castro was laid before the house.]

CASTRO: Mr. Speaker, members, this amendment would simply have the abortion provider give information to the woman coming to seek the abortion about services available at the attorney general's office to establish paternity and to collect child support eventually when the child is born. I believe that it is acceptable to the author.

[Amendment No. 18 was adopted.]

[Amendment No. 19 by Castro was laid before the house.]

CASTRO: This is an amendment that is similar to the one that was just accepted, except instead of information about the attorney general services that are provided to establish paternity and child support, this is so that we provide an application for Medicaid services so that the woman, if she qualifies, if she's eligible, so that she can be enrolled and she can have prenatal care so that she can get the assistance through her pregnancy. Please bear in mind, members, that, you know, we've heard a lot of discussions about the reasons that somebody terminates a pregnancy—of course, the fear of costs and the fact that they can't afford a child is a big consideration. So rather than what we have in the law now, which is simply telling her that there are resources out there somewhere, we want to create a more direct link and make it easier for to her enroll in these services.

NAISHTAT: Doesn't the current informed consent provision in the bill already require doctors to provide a pregnant woman with information related to medical assistance benefits? Isn't that already in there?

CASTRO: Yes and no. And not quite the way we do it here. The physician is only required to inform the woman that medical assistance benefits may be available. The physician is not required to give specific information about state Medicaid programs or provide the woman with an application for expedited eligibility and enrollment.

NAISHTAT: So all this says is that the doctor has to say that assistance may be available? That's all the doctor would have to do?

CASTRO: That's all. We're just creating a more direct connection for her to enroll in the—qualify for these benefits.

NAISHTAT: Do you have any idea how many births in Texas are paid for by Medicaid?

CASTRO: One in two births in Texas are paid for by Medicaid.

NAISHTAT: And so is it the intent of your amendment to automatically enroll all pregnant women in the Medicaid program?

CASTRO: It's not. And I want to be very clear about this. This is only for the women that qualify for the Medicaid services. Obviously, there are folks who may decide to pursue an abortion who wouldn't qualify for Medicaid. So this amendment, this language, wouldn't apply to them.

NAISHTAT: So what you're trying to do is make sure that the woman is fully informed of the options that may be available to her?

CASTRO: That's right. We want her to have all the information she needs. And I think it's especially important because let's say a woman goes in now, and even when this legislation is passed, she sees the sonogram and she decides not to have the abortion. Well, there's a chance that she could decide to come back later, if she reconsiders, and a big part of that reconsideration may be that she simply can't afford a child, or her fear that she can't afford a child. And what this bill does, it makes it easier if she qualifies, if she's low income, to enroll in the Medicaid program.

NAISHTAT: Is this amendment not acceptable to the author?

CASTRO: Right now it looks like it's not acceptable.

NAISHTAT: It's a good amendment.

CASTRO: Well, thank you. Thank you, Representative Naishtat. And I would ask that y'all please seriously consider this amendment. It's not creating anything new. There's already an expedited eligibility enrollment form for women. All we're doing is making sure that we're putting our money where our mouth is. In other words, we're not just saying, hey, there's these services available out there and go find them if you can. We're saying, look, here's the application. You can get enrolled and you can start taking care of your child properly. So I would move adoption.

[Representative S. Miller moved to table Amendment No. 19.]

NAISHTAT: Representative Miller, I want to make sure you understand that what we're talking about with this amendment is guaranteeing that a woman who has decided not to have an abortion would be given an application, simply an application, for expedited eligibility and enrollment in the Medicaid program and other information regarding the state Medicaid programs. That's all it's saying.

S. MILLER: Correct. Okay. Do you have a question?

NAISHTAT: That was the question. Do you understand that?

S. MILLER: Yes, I understand that. Much of this information is already provided in the previous law of the informed consent law. So, I would consider it redundant.

NAISHTAT: You would consider it redundant to give an application for expedited eligibility for a woman who chooses not to have an abortion? That's all it's asking for.

S. MILLER: Correct. We're already providing that information and a lot more under the informed consent law we passed a few sessions back. That's the first thing they are to provide those mothers when they come into the facility.

NAISHTAT: All it says is that the physician may provide information, that's all it says in the bill.

S. MILLER: They can—they may do it now, if they so wish. But, under the informed consent law, that information, plus even much more is provided. So it's duplicating that service by passing this amendment. I believe it's unnecessary and probably would cause some fiscal implications to the bill.

CASTRO: I have to disagree with Representative Miller, and I explained the difference a little while ago. It's not duplicative, it's not redundant, because right now the physician is not required to give an application. It's not required to give the specific information that we're asking for. Members, bear in mind that this is once a woman has decided not to have the abortion. In other words, that's once the goal of this legislation, to increase the number of births, is accomplished. What I am asking for at that point, now that she's made that decision, that the state be good enough give her an application, if she's a poor woman, to be able to receive services to help her with her child, services that she has to qualify for anyway, services that already exist. We're not creating a new pot of money for anybody. All we're doing is giving her an application. We can't give her an application? There's something wrong with giving this woman an application now? That's all I'm asking for.

[Amendment No. 19 was tabled by Record No. 78.]

[Amendment No. 20 by Farrar was laid before the house.]

FARRAR: Mr. Speaker and members, it seems though through our questions that we are determining that the intent of this bill is not to further information, but to coerce a woman into not having an abortion. It seems that the legislature has decided that, regardless of all circumstances, no matter what, a woman should not have an abortion. Since women chose to receive an abortion, some women have felt that—actually, it's quite frequent, I hear, women choose to have abortions—a lot of them are already mothers—because of economic reasons. They can't afford the pregnancy, they can't afford to support another child financially. And, if that's the case, I think we need to help these women. In this current budget we've actually cut prenatal funding. So what I'm asking is that the state would maybe pay for her prenatal care if she decides not to go through with the abortion. And if the state truly values life, then it should put money where its mouth is. The legislature wants these pregnancies to continue, so let's ensure that this birth is paid for.

VO: Representative Farrar, you gathered a statistic yesterday saying the majority of the women who had an abortion, attempted to have an abortion, because most of them are financially challenged and they are afraid that they would be facing a financial burden after the birth of the child, correct?

FARRAR: Correct.

VO: So, it's clearly that the intent of the amendment is to convince a woman to carry her pregnancy to term?

FARRAR: Well, let me stop you. It's not to convince her, but it might put a factor into her thinking—it might make—

VO: The idea is to help her with the financial burden?

FARRAR: Right.

VO: So, if that is the case, do you think that it is important to ensure healthy pregnancy and a live, healthy birth?

FARRAR: Well, prenatal care—we all know—it's a small amount of money that you spend up front, because if you don't spend it you end up with low birth weight babies and you might miss a birth defect, you might miss other things that might even be corrected early on in the pregnancy. So, this is something that makes sure that the woman would have a healthy pregnancy.

VO: So, prenatal care is a cost saver to the state, right?

FARRAR: A huge cost savings. Because, if the child ends up born with a disability because something wasn't caught along the way, the child couldn't qualify for Medicaid, and it could be an enormous cost to the state. When if you spend a little bit of money up front, we could actually avert, in some of those instances, terrible consequences.

REPRESENTATIVE COLEMAN: Representative Farrar, this amendment that you bring is about prenatal care, correct?

FARRAR: Correct.

COLEMAN: And the purpose of prenatal care is to make sure that we don't have premature babies and low birth weight babies, isn't that correct?

FARRAR: Among many things, yes.

COLEMAN: Among many things? Maybe disabled or other intellectual disabilities, or developmental disabilities that come from low birth weight?

FARRAR: Correct.

COLEMAN: Did you know that the State of Texas has the most low birth weight babies born of any other state in the United States of America?

FARRAR: I knew we were toward the bottom in that number, but I didn't realize we were the very bottom.

COLEMAN: We're the worst. And you know how that raises costs, right? Because every hospital that comes by says how proud they are of their neonatal intensive care unit, isn't that correct?

FARRAR: Correct.

COLEMAN: But isn't it true that the most extensive cost is caring for a premature baby in a neonatal intensive care unit?

FARRAR: Oh, it's a huge cost.

COLEMAN: It's a huge cost. So, if you have a low income woman who is 185 percent of poverty or below, who is going to have a birth under Medicaid, then that child would be Medicaid eligible. And because you have a low birth weight baby, we're talking about a potential for 100,000 or more costs by having that baby being in a neonatal intensive care unit.

FARRAR: Exactly. And imagine how you could actually use those resources if they didn't have to go to that. Imagine how much more prenatal care you could provide, how much more—and we are hearing from our constituents about schools about to close, about disabled people being afraid to lose their home health services. We are making so many cuts in this budget that are actually going to cut the lives of people very short, much shorter than we would have anticipated. So, yes, I think there are much better ways to spend our resources.

COLEMAN: And, I tell you, it's important that you bring this amendment. Because in today's world, having the highest number of low birth weight babies that may or may not live, regardless of whether the woman chooses to have a termination, a voluntary, elective termination; but we can prevent these costs if we give women the appropriate prenatal care. And back in 2003, you might remember that one of the cuts that was in **HB 2292**, by Ms. Wohlgemuth, cut all prenatal care to children, to women in the State of Texas. I think it's important what you bring because, as it's been said before, if we're going to make decisions about how people determine who the children that they do and don't want to have, we ought to be responsible enough to have that child be healthy. Thanks for bringing this amendment.

FARRAR: Exactly. And you bring up a great point. A lot of what we hear from is women who have faced a terrible decision because of economic factors. And if we can alleviate just a minor one, we might actually achieve the results that I think everybody in this body would like see, which is a reduction in the number of abortions.

REPRESENTATIVE V. TAYLOR: Representative Farrar, last week I had the opportunity to spend about a half an hour with a doctor in my district who performs abortions on a regular basis. One of her objections to this house bill is that it directs her very specifically how she is supposed to practice medicine. Do you concur with that objection about **HB 15**?

FARRAR: I do. And, in fact, I've got an amendment that addresses that.

V. TAYLOR: Okay. Well, doesn't your amendment make that objection yet worse, because it does more to tell a doctor how they should practice medicine with their patients?

FARRAR: No. We're not telling the doctor to provide the prenatal care, we're telling the state to do so.

S. MILLER: Mr. Speaker, members, because of the huge fiscal note that this would create, I'm going to move to table.

COLEMAN: Mr. Miller, in terms of the cost to the government, do you believe that children being born with birth defects and low birth weight and disabled is something that is not appropriate to spend money on in this state?

S. MILLER: I believe every life is precious.

COLEMAN: Well, if the life is precious, why isn't making sure that the life is a precious and long and good one appropriate under the bill that you have since you have brought forward a bill about life. At least that's what you—that's right, right? A bill about life and making sure that women don't have abortions?

S. MILLER: This amendment is not confined to just those narrow circumstances. It is expenses incurred for the care of all women and all unborn children, including reasonable and necessary expenses at childbirth and post delivery recovery. So, it's very, very wide-sweeping, and would cause such a huge fiscal note. Our budget is not—

COLEMAN: But, Mr. Miller, don't you believe that children are priceless, or do you only believe they are priceless when nobody else has the responsibility for them?

S. MILLER: I don't believe it's the government's job to do all for everyone. There is some personal responsibility involved.

COLEMAN: So, answer this question then. Why are you using the government to interfere in the lives of women and their decisions then, if you don't believe it's the government's job to provide for those things? You seem to think this is the government's job. So, why don't you think it's the government's job to do those other things, Mr. Miller?

S. MILLER: This bill is about informed consent, making sure the mother-to-be goes to the abortion provider, to be provided all the information available to her. I wouldn't call that an intrusion.

COLEMAN: It appears to me that this bill has a cost as well.

S. MILLER: Actually, there is no fiscal note on this bill. That's incorrect, there is no cost.

COLEMAN: But, Mr. Miller, then you've subbed an unfunded mandate on somebody else to pay for something that the state isn't paying for in terms of the sonogram.

S. MILLER: I would beg to disagree. It doesn't do that either, Mr. Coleman.

COLEMAN: Well, tell me why it doesn't then.

S. MILLER: Okay. The standard medical care practice before any abortion is performed requires a sonogram to be performed. My bill does not create any more sonogram procedures than are being performed now.

COLEMAN: Then why do you have to require it under the law, sir, if it's already standard procedure?

S. MILLER: What the bill does is require that information be made available to the woman.

COLEMAN: So, do you believe that doctors don't make information available to their patients, they just do procedures and then walk away and throw the stuff in the trash?

S. MILLER: Exactly. Thank you for bringing that up. That was the exact testimony that we received in committee. Women actually asked to view these sonograms and were denied, even though they paid for it out of their own pocket. That is the purpose of the bill.

COLEMAN: Well, I'm sorry, I think that must be one circumstance, because I don't believe that any doctor would keep their patient from viewing something that they paid for. So, you must have had the only person that happened to come into the committee.

S. MILLER: There was multiple testimony on that. And, actually, there was testimony that they never were able to even talk to the doctor about the procedure.

COLEMAN: So, they weren't even able to talk to the doctor about abortion and that's the reason they—because of they couldn't talk about the sonogram or didn't have the information that they went on and had the abortion?

S. MILLER: That's what the testimony was. Many of them relayed to the committee that they were rushed through the procedure, they never met their doctor. They never got to talk to their doctor about the procedure or the implications or the possible side effects of it.

COLEMAN: So, in terms of informed consent, they knew they were going to get an abortion, they knew they had a sonogram. The sonogram would have stopped them from having an abortion and so this bill is designed to do that, right?

S. MILLER: This bill is designed to make sure that the woman is fully informed about the medical procedure that she is about to have.

COLEMAN: But you said previously, when I asked you the question and you said that yes, that's the reason they went on and had the abortion. So, it appears to me that you've admitted that this bill is for that purpose.

S. MILLER: The testimony in committee was that once the women saw a sonogram of a fetus the same age that they aborted, many of those in the testimony regretted having the operation done and testified under oath that if they

had been able to see their sonogram that they would have made a different decision.

COLEMAN: I certainly do understand. That's why I support the amendment that Ms. Farrar has, because I think that all life counts, including the life of someone who wants to be born in a way that they live a good life.

LUCIO: Mr. Miller, Chairman Miller, you have said many times tonight that this bill doesn't require any additional sonograms to be performed because the sonograms are already performed in standard operating procedure when an abortion is going to be conducted, is that correct?

S. MILLER: That's correct.

LUCIO: However, you also stated that for liability purpose a physician would not take—would have to perform his own sonogram before conducting an abortion, even if there was a sonogram performed five, six days ahead of time, is that correct?

S. MILLER: No, that's not exactly, it's close. Let me clarify, please. What I said was if they received a free sonogram at a different clinic, that that doctor would not want to use that sonogram because of liability reasons. The sonogram would need to be performed at the clinic where the operation was being performed.

LUCIO: So, when you say they have to have a sonogram regardless, now, under this bill, based on the statement you just said, they're going to have to have two sonograms?

S. MILLER: No.

LUCIO: How do you figure? Because if they go and get a sonogram for information purposes at a place other than where they're going to get the abortion conducted, that's one sonogram. And then for liability purposes and what several other people, including one of our own colleagues who is a doctor, tells me is when they get an abortion, the day of, right before it's going to be performed, they get another sonogram. Essentially, they're getting two sonograms.

S. MILLER: Well, I'm sorry if there's confusion, but that's not exactly right. As a matter of fact, it's incorrect. So, when the lady comes into the clinic, she is given a list of other providers that provide free sonograms. That's as far as it goes. She can go if she wants, she can not go. She is simply provided that list.

LUCIO: Okay.

S. MILLER: And then the procedure, if she still so chooses to have it, the sonogram still has to be performed, and it's standard medical procedure now at that clinic performing the procedure. So there's not really two sonograms, this is just—

LUCIO: No. There's two. And let me explain why. Because, based on your bill, there's a time element involved: 72 hours and 24 hours, those are the magic numbers. So, she has to have an informational sonogram, if you want to call it that, 24 hours before she gets a sonogram conducted. Then, based on standard operating procedure to perform a sonogram at the time she is going to have an

abortion, another sonogram is going to take place. Based on your testimony or your comments today, standard operating procedure immediately before an abortion is going to take place, a sonogram has to take place to determine the internal functioning or the internal position of the placenta or whatever. So, essentially, this is saying, based on your information that you shared with us, this is going to require two abortions—two sonograms.

S. MILLER: Well, actually that is incorrect. One sonogram in a 24-hour period prior, or 72-hour period prior to the operation is sufficient. Two are not required.

LUCIO: So, you're saying that you do not believe that it is standard national practice of care, acceptable practice of care, that immediately before, on the day of, during the time that this operation is going to take place or procedure is going to take place, that if they were conducting a sonogram 24 hours before, they won't do one immediately that day?

S. MILLER: That's correct. One is sufficient.

[S. Miller moved to table Amendment No. 20.]

FARRAR: Mr. Speaker, members, I can't really add much to what has already been said, except for if we really mean it, if we really want to talk about trying to see fewer abortions occur, this is the one way to do it, this takes out the economic factor; part of the economic factor that many women face. One of the their biggest concerns is how will they pay for the pregnancy and then beyond that, we've already voted down, how to raise the child. But, nonetheless, especially given that in this budget we have cut prenatal funding, I ask you to vote no on the motion to table.

[Amendment No. 20 was tabled by Record No. 79.]

[Amendment No. 21 by Hernandez Luna was laid before the house.]

MARTINEZ FISCHER: Mr. Speaker, earlier the chair made a ruling on the point of order that I raised regarding whether or not a bill analysis was properly detailed, pursuant to the Rule 4, Section 32(c). And I've had an opportunity to review the chair's ruling. I just had a couple of questions. Do you need to get a copy of your ruling, Mr. Speaker?

SPEAKER STRAUS: Go ahead and ask your question.

MARTINEZ FISCHER: Well, I just want to make sure that I read on page 2, the chair in his ruling says that I made an argument regarding whether or not the word "medical emergency" was properly detailed in exception to the sonogram rule, because it wasn't defined specifically, and given the various nuances of "medical emergency" throughout our codes, I believe that that was substantially, materially misleading. The chair disagreed with that. But in the chair's analysis it says that the bill analysis properly notes that the bill defines a "medical emergency," and properly notes that an exception to the sonogram requirement for a physician performing an abortion in a medical emergency. And so, I'm asking for the chair's interpretation, is if one of the basis for denying or

overruling the point order was because the chair found that those items were properly noted in the bill analysis, is that correct?

SPEAKER: The chair found that the bill analysis complied with Rule 4, Section 32(c).

MARTINEZ FISCHER: Yes, sir. And I understand that. But I think that the term of art that was used by the chair was that the bill analysis properly notes and that the bill analysis properly notes that the bill defines a medical emergency and the bill analysis properly notes that an exception to the sonogram requirement for physicians performing an abortion in an medical emergency. So, I want to know what the chair means when the chair says by properly noting those terms, as they are material to the point of order that I raised. I'm assuming that word "proper" had a meaning, because the chair would not have inserted that word if it didn't.

SPEAKER: The chair was referring to the two sections of the bill analysis that are on page 2 of the bill analysis as it relates to the medical emergency.

MARTINEZ FISCHER: So that I'm clear, Mr. Speaker, that the—

SPEAKER: Hold on one sec.

MARTINEZ FISCHER: Yes, sir.

SPEAKER: And the chair was noting that those two provisions and the bill properly comply with Rule 4, Section 32(c) and (f).

MARTINEZ FISCHER: And in part of your answer you said that the "proper" also relates to proper because it was contained in the bill analysis, did I hear that correct?

SPEAKER: Yes, Mr. Martinez Fischer, both of those items were contained in the bill analysis.

MARTINEZ FISCHER: I'd like to raise a point of order for further consideration of this bill for violating Rule 4, Section 32(c).

[The point of order was withdrawn.]

HERNANDEZ LUNA: This is a very simple amendment. It simply states that after a woman has an abortion that she is provided with as much information as possible regarding family planning. I think this is a way to reduce the number of abortions and the number of unplanned pregnancies, that women have as much information and resources available so they can control their lives well and be able to plan for future pregnancies. And I'm not sure it isn't acceptable to the author.

S. MILLER: Mr. Speaker, members, I'm going to move to table. What this does is it actually enhances the activities of Planned Parenthood. Move to table.

HERNANDEZ LUNA: I'm not sure of the explanation of how it enhances the services of Planned Parenthood. What I'm simply asking that after an abortion is performed, that a woman is provided with information regarding family planning. This means being able to plan for future pregnancies, knowing the natural rhythmic system of the woman's anatomy to be able to become pregnant.

FARRAR: Ms. Hernandez, really, what you are trying to do is—correct me if I'm wrong—what you are trying to do is ensure that we don't see more unintended pregnancies. Isn't that what you're trying to accomplish with this amendment, and then therefore reducing the number of abortions?

HERNANDEZ LUNA: That is correct.

FARRAR: I think you have a good amendment.

[Amendment No. 21 was tabled by Record No. 80.]

[Amendment No. 22 by Anchia was laid before the house.]

ANCHIA: I know it's late and I fear that we've all developed patterns of voting already. But I wanted to share with you this amendment, because this sort of hits close to home for me. We were parents a little bit later in life and for a long time had difficulty with the reproductive health of my wife. Thankfully, we have two beautiful daughters now. But we had a high risk pregnancy with our first daughter and for a while it was touch and go and quite difficult. What this amendment does is for parents who want to have a baby but whose pregnancy is complicated and there's an irreversible condition that is defined in the Health and Safety Code and the viability of the child is compromised, they can forgo the vaginal probe ultrasound. It's that simple. Currently, in the bill, there's only one exception, for medical emergencies. But what the bill does not pick up is the situation of Claudia Crown Ades and her husband when they discovered in her second trimester that the fetus had a genetic disorder known as Trisomy 13, which caused the fetus to have fluid-filled, nonfunctional brain and a malformed heart, or with the case of Gilda Restelli, who was nearly thirty weeks pregnant when doctors discovered that her fetus only had fragments of the skull and almost no brain. I know from personal experience when my wife and I were dealing with the high risk pregnancy, that information—we were not lacking information. We were up late nights, we were scared, there were feelings of guilt for having waited so long to have children. There were feelings of insecurity on behalf of my wife, and inadequacy. We spent hours and hours on the internet, we talked to multiple doctors. And I think it's just wrong for this body, in the situations such as these, to require yet another ultrasound, 24-hour waiting period, where a woman has to sit there and listen to the heartbeat and watch the image. Because at this point there have been multiple tests, there have been multiple pokes and multiple proddings. There have been needles. And I don't feel comfortable about going back to my district and saying to women in the district and men in the district that the Texas Legislature is going make you relive what is already a difficult time. I think it's wrong for us to get in the middle of this type of difficulty for a family, to get between them, their doctor, and their God.

LUCIO: Mr. Anchia, thank you for bringing this amendment. We've spoken at length about this specific situation. And I'd like to just walk through how someone would be in the specific situation that this amendment addresses.

ANCHIA: Okay.

LUCIO: Six or seven weeks go by, normal time when most women think that they're late with their menstrual cycle, they determine that they might be pregnant. They take a pregnancy test. Seven, eight weeks, they go to their doctor, they go to their first checkup.

ANCHIA: That's right.

LUCIO: Doctor confirms they're pregnant. They're excited. They say, okay, come back in a couple of weeks, we'll do your first ultrasound. You get to see the baby. That's ultrasound number one. Sonogram number one.

ANCHIA: That's right.

LUCIO: Okay. At that point, most doctors now say given your age, given all that can go wrong in a pregnancy, you should go get a genetic test. So, then they refer you to a genetic testing center and you go and they do a family background check and a family health analysis and they do an ultrasound to do measurements, isn't that correct?

ANCHIA: That's right.

LUCIO: That's sonogram number two. Then you wait and you get the results two, three weeks later from the genetic testing. And what that is a very obscure probability result. You have a 1 in 12, 1 in 20 chance of having a child with a major genetic defect, is that correct?

ANCHIA: That's right.

LUCIO: No guarantee. Then they say if you want a guarantee, because that probability doesn't get you to the threshold that your amendment creates, you have to do an ultrasound. And if the ultrasound, this is after one, going to your initial doctor's visit, then going to the genetic test, then going back for the genetic test result, then they say in order to know for sure you need to get an ultrasound. So, then they schedule you for an amniocentesis, right?

ANCHIA: That's where they put a needle about this big—

LUCIO: This big, in your belly.

ANCHIA: In the woman's belly. And they have to do a sonogram before that to make sure that the baby is not in a position where it's going to be harmed by the large needle.

LUCIO: That's right. And so, while they are performing the amniocentesis, a very long needle through the pregnant woman's belly into the womb to withdraw amniotic fluid for testing, they are simultaneously doing an ultrasound or sonogram in order to determine the position of the baby so that they don't hurt the baby.

ANCHIA: That's right.

LUCIO: So sonogram number three. In order to get those results from the amniocentesis, in order to meet the standards that your amendment requires, which is medical certainty that there is a irreversible medical genetic abnormality, they have to have had not one, not two, but three sonograms. Plus, a minimum of

six to eight weeks of time to think about those sonograms, to think about the consequences of what could be the results of those tests, and the consequences of whatever decision they have to make, is that correct?

ANCHIA: That's right.

LUCIO: And I know that the author of the bill would disagree with me, but then under this bill because of the time element required you would have to get a fourth and a fifth sonogram. A fourth, because it has to be 24 hours before where you do a sonogram and get this information, and then immediately before the procedure is performed because most doctors won't perform a termination, in this case, because it's not an abortion, it's a termination because we have an irreversible, nonviable genetic defect; that's five sonograms.

ANCHIA: Mr. Chairman and members, I think you said it well. These are not parents who want to have an abortion. These parents want to have a healthy child, but they don't. The child has an irreversible condition that's defined in the Health and Safety Code, basically means that the child is not going live and it's not viable, which also means the child is not going live. And, if that's the case, I think it's wrong to have to force that family to have yet another sonogram, to hear a heartbeat that may or may not be there, and to relive a very difficult time that they have been living for months. So, members, this is not a medical emergency that's covered by the existing exception in the bill, this is an additional exception. It's very narrow. It's limited to irreversible conditions and lack of viability, meaning the baby's probably dead. And I can't go back to my district and tell women, tell families, that we're going make you go through an additional procedure or relive a difficult time, because I'll repeat it again: it's between a spouse, their wife, their doctor, and their God. Move passage.

S. MILLER: Mr. Speaker and members, this is a sensitive subject. I'm going to move to table at this time.

LUCIO: Okay. Again, I'd like to refer to the language that I assumed you were going point to they were going to say that they could refuse. Do you believe that with the existing language, that you've repeatedly said that they can use to refuse the information, they would be—if they refuse, they would not necessarily have to have this sonogram, is that correct?

S. MILLER: Well, actually, this is high risk case. It's not going to be done by an abortion provider, it's going to be assigned to an OB/GYN, a high risk doctor. It's going to be done in a hospital. And there will be, actually, there will be several sonograms, not just one required by my bill. So, it won't require any additional sonograms prior to, and, in many cases, during the surgery there will be sonograms going on. The doctor will require this 24 hours before. They will certainly want to do another sonogram, they will see what's happening there, if there's any blood or discharge or any change or movement. That is part of the medical procedure. So, I want everyone to understand that it does not require an additional sonogram. There's going to be multiple sonograms in a case like this. And I realize this is very sensitive and I can appreciate what Representative Anchia is trying to do, because it is a very sensitive subject. However, there is a

carve out, and I think that's what you're fixing to refer to in the bill, in Section 171.055, that does specifically say that the woman may not—may choose not to receive that information or view the sonogram. So, I believe we're covered.

LUCIO: If I can, that nowhere from lines 11 through 16 does it say that they do not have to at least have the sonogram performed. All it says is that because the pregnant woman chooses not to receive the information, so as the bill is drafted, in this scenario, after seven to 10 weeks, or six to eight weeks, three sonograms, 24 hours before the—this is a termination, I will not refer to this as an abortion.

S. MILLER: That's a good term.

LUCIO: This is a termination, and based on your bill, that family would still have to have a sonogram 24 hours before the procedure.

S. MILLER: Which is going occur anyway.

LUCIO: I understand that. But it's going occur. Exactly. So, 24 hours before and then again during. And they're going to have to view some type of affidavit that's going to say somewhere in there, and refer to some language about a heartbeat and child and fetus, and reliving the fact that they, who very much wanted this child and are going through this procedure, unnecessarily informing them because, mind you, they've had a minimum, minimum of eight weeks to think about this, and three sonograms to understand exactly the consequences of their actions. Based on this bill, in this scenario, this high threshold of medical certainty that you have to prove that there's a genetic irreversible defect where the baby will not be viable outside the womb, you are still going to require a 24-hour grace period sonogram and then one during the procedure itself.

S. MILLER: Which the woman can refuse.

LUCIO: Can refuse the information, not the sonogram.

S. MILLER: She can refuse to view the sonogram. She can refuse—

LUCIO: She can refuse to view the sonogram but the sonogram will still be taking place. She will still have to go through the motions of showing up 24 hours before the termination.

S. MILLER: Prior to the operation. Prior to the operation.

LUCIO: Please hear me out, because this is very serious and close to my heart. She is going to have to go 24 hours before the termination to do a grace period sonogram, lay down on the table, look at her pregnant belly yet again, have jelly put on that belly, yet again, and see, two feet away from her, a monitor that shows her child that, in most cases, will have no chance of surviving outside the womb. Then the next day—have to think about that for another 24 hours—then the next day, go back, and during the procedure, see that yet again.

S. MILLER: No, she does not have to see it. That is standard medical care. That is going happen in a termination case that you've described, whether this bill passes or not. That's going happen. She's going to have multiple sonograms in this particular medical case. But, I remind you that she does not have to view the sonogram.

LUCIO: Sir, I understand. Based on your—she is still going to have to go through the motions of getting the sonogram, which is looking at your belly 24 hours, unnecessarily for no medical necessary reason, laying down on an examining table—

S. MILLER: I'm going to—

LUCIO: —and getting a sonogram performed. Then doing it the next day during the procedure. How can you not see in this case that there's an unnecessary sonogram being performed on a woman, on a family, who is devastated because of this?

S. MILLER: Well, it's like this—

LUCIO: And her consolation is they are going to turn the monitor? They don't have to see it? They still have to go through the procedure though, right? Based on this bill, they still have to get that sonogram whether they look that the monitor or not.

S. MILLER: Are you ready for my answer?

LUCIO: I am.

S. MILLER: Okay. I'm going to disagree with your assessment there when you said that it is an unnecessary medical procedure. It is a very necessary medical procedure prior to the termination in this particular instance. That medical procedure you call a sonogram will be done by that doctor, whether this bill passes or not, up until right before and sometimes even during the procedure. So, we're not subjecting her to any more sonograms. I think where we differ is that this bill has a carve out, and you don't seem to think so, where she does not have to view that sonogram.

LUCIO: I would be hard pressed to find, given the facts that we've laid out before you, where it is medically necessary 24 hours before to receive strictly informational sonogram and not have it done simultaneously, during the execution of the procedure of termination, the process of going through the sonogram, regardless of if you look at the screen—and laying there and, once again, being in a gown, looking down at your pregnant belly as that sonogram is being conducted on your belly is extremely emotional for a woman who knows that there is nothing in that that is going to come out positive. Please, think about exactly this scenario. The standard to determine irreversible genetic defects and viability is extremely high in the medical profession. We're talking about an amniocentesis, which is 99.9 percent accurate. We're not talking about a fly-by-night, you know, someone who's just making a decision. We're talking about normally a man and woman who are married, who have been devastated by the news that that pregnancy that they wanted desperately is no longer viable. That's what we're talking about. So, we know members, this is what we're talking about.

ANCHIA: I want to thank Representative Lucio for those really good questions. Sometimes these things hit close to home and they're not trivial, they are quite serious and they're quite difficult to talk about. Ladies and gentlemen, there's

only one set of exceptions in this bill and they relate to medical emergency. The situations we've described are not medical emergencies and would fall outside the exceptions to this bill, forcing politicians in Austin, forcing parents who are going through the situation is neither compassionate nor conservative nor right. So, I'd ask you to stay with me and vote against this motion to table.

[Amendment No. 22 was tabled by Record No. 81.]

[Amendment No. 23 by Coleman was laid before the house.]

COLEMAN: Members, what this amendment does is alter the penalty against a physician under this bill. And one of the challenges with the penalty that's in the bill, nowhere else under the law of the State of Texas, does the physician lose their license for not performing a procedure, except when they have violated the law. And then, under that process, there is due process for that physician. So, what would happen under this bill is that the individual, if for any reason didn't provide the information mandated or the procedure mandated under this bill, they would automatically have their license revoked. And that is extreme in terms of how we govern and license and adjudicate physicians in Texas. And that is the reason I bring this amendment, because this is very extreme for the medical board to do a death penalty violation based on something that was no harm to the patient in any way, or a criminal activity or moral turpitude.

CASTRO: Representative Coleman, do you know of any other area where the legislature directly revokes the professional license without any kind of due process or would allow—without allowing the licensed person, the licensed professional to go through, for example, the Texas Medical Board and whatever their procedure is?

COLEMAN: No, there is no other circumstance like the one that is contemplated in this bill in terms of making sure that a doctor does the correct services or sanctioning any professional in terms of their livelihood and their ability to practice their profession.

CASTRO: And would you agree that the legislature has not been, the government has not been so intrusive, because we don't pretend to know all of the professional standards by which a doctor or a lawyer or any other licensed person should have their license revoked? In other words, we allow professional organizations like the state bar, or the medical board to do that?

COLEMAN: That's correct. It appears as if that the way this bill is crafted is to provide a "gotcha" to a professional, and walk and in and say—that anybody could walk in and say that they have not complied with the procedures and immediately they would be subject to having their license revoked. Revoked, without due process. And we've made the medical board a very important place, because that's where our constituents and others go to make sure that people are practicing medicine in the way that's best for the people of the State of Texas; that's their redress. But to have a situation where it is automatic that there is a revocation of a license when no one has committed a crime or done a procedure improperly, in other words, didn't practice medicine correctly, or in that circumstance has not done anything that requires such a harsh punishment, and it

appears to me that this is bordering on the lines of intimidation of medical professionals in this circumstance.

CASTRO: And would you agree that we are opening a Pandora's box here and going down a slippery slope in terms of license revocation and the legislature directly intruding in the professional standards of different groups?

COLEMAN: No doubt about it. It doesn't matter if we're talking about nurses, if we're talking about lawyers, if we're talking about accountants, if we're talking about any profession where there's an automatic sanction based on something that wasn't criminal, was not malpractice and was not appropriate to what has occurred in that particular procedure or in that—in that practice.

VILLARREAL: Mr. Coleman, Chairman Coleman, isn't it also true we desperately need doctors in Texas? We need more doctors than we currently have?

COLEMAN: That's correct. We need more doctors and more health professionals and, yes, that's absolutely true.

VILLARREAL: Doesn't Texas have a shortage of doctors that puts it at the bottom of the ladder in terms of looking at other states and where we rank with the health care availability and access to primary care doctors?

COLEMAN: Yes, I hear that argument all the time, that we need to do all we can to bring in primary care doctors which would include obstetricians, gynecologists, internists and others that most people don't view, but are primary care providers.

VILLARREAL: I really appreciate your amendment, because you cause me to reflect on how it seems this legislative session we're just piling on the doctors, from everything from **HB 1**, the cuts to Medicaid rates, now this capital punishment, you know, clause, penalty, on their profession. Could this turn out to be the worst legislative session ever for our medical profession?

COLEMAN: In a lot of ways, yes. And this is pretty interesting, if you think about the patients, there's not automatic revocation of a license if someone botches a C-section, that they do something in a breach delivery that harms the child, the wrong limb is removed, the wrong kidney is removed. That person can continue practicing, but, in this case, a person would be sanctioned with loss of their license, a health provider, for not showing someone the sonogram, and/or anybody could accuse them of not following the law and they could have their license suspended for that moment and then immediately revoked. There is no due process in this law and it has nothing to do with proper medical practice, this has nothing to do with whether a physician is providing the proper medical procedure and proper medical treatment to their patient. This has nothing to do with that.

VILLARREAL: Are we setting a precedent to govern the practice of medicine?

COLEMAN: I think we are setting a precedent of extreme intrusion for the wrong reason. If we're going to intrude on our health professionals, let's intrude on them when they do something harmful to their patients. Let's make sure that the

patient is made safe by the medical board. They have more to do for—to discipline health providers based on real things, instead of based on turning the medical board into the sonogram police.

CASTRO: Mr. Coleman, I just, I really just have one question. You agree that this revocation—this automatic revocation that we're doing, may in fact be way more than doctors get—or a punishment, a much harsher punishment than doctors get for committing even more serious offenses?

COLEMAN: No doubt about it.

CASTRO: In fact, I wanted to see if you're aware of this case, a case where doctor's license was simply suspended, and I'll read you the quick paragraph. It says, on February 18th, 2011, the disciplinary panel of the board temporarily suspended without notice, the medical license of this doctor after determining that Dr. Walker's continuation in the practice of medicine constitutes a continuing threat to the public welfare. The panel found that the doctor inappropriately prescribed controlled substances to seven patients, including one who died from an overdose on January 1st, 2011. The doctor prescribed something to a patient that died, and they temporarily suspended that person's license.

COLEMAN: Yep.

CASTRO: And we're automatically revoking a license here?

COLEMAN: This punishment that is laid out in this bill does not fit the circumstance that it's supposed to sanction. And that's the reason why I bring this amendment, because this is inappropriate in comparison to how we sanction physicians based on harm that is done to an actual patient.

S. MILLER: Mr. Speaker and members, I understand what Representative Coleman is trying to do, but his amendment goes way beyond and actually allows—actually, it guts the bill, it makes it permissive to assess a penalty, and there were no doctors to testify against the bill or this provision in committee, so I am going to—and there is due process. There is due process. So, I'm going to move to table.

COLEMAN: I'm not going to prolong this, but we are here to make good public policy, folks. And because there's a run on a bill that says that we're not going to accept any amendments doesn't make the amendment bad public policy. So, what I would say to you is that we move forward with this, I would ask that you vote to put this amendment on the bill. But if this amendment isn't put on the bill, I would ask you to call the physicians that are your constituents and ask them if they think this is an appropriate sanction for them, or any physician when a procedure like this occurs, and whether this is what the medical board is for or not. I ask you to vote no on the motion to table.

[Amendment No. 23 was tabled by Record No. 82.]

[Amendment No. 24 by Farrar was laid before the house.]

FARRAR: Mr. Speaker and members, the bill, as it stands, mandates that a doctor perform a medical procedure even if he or she doesn't deem that it's in the woman's best interest. Doctors should not be forced to choose between complying with the law or doing what they believe is best for their patient. Thereby they could lose their license and their ability to earn a living. This puts a doctor between a rock and a hard place of trying to comply with the law but also doing what is best for his or her patient. Doctors have all the necessary medical training to determine how to treat their patients. This amendment says that the legislature cannot trump what a doctor deems is best for his or her patient and allows him or her the authority to make the appropriate decisions on a case-by-case basis. Government should not make personal medical decisions for doctors and patients. This amendment prevents government from taking over health care decisions.

HERNANDEZ LUNA: Ms. Farrar, do you think the bill as it stands now—I mean, we're trying to tell the doctors how to do their jobs.

FARRAR: It absolutely does. You've heard in the discussion back and forth, the precedent that this can possibly set, the fact that we're treating doctors, as Mr. Coleman's amendment just explained, we're treating doctors who violate this part of the law differently than if they do much more horrendous things to their patients.

HERNANDEZ LUNA: Do you think that we as legislators are more qualified than the Texas Medical Board to make these decisions?

FARRAR: A few of us in this room are medically trained, but most of us are not. So, no, I don't think we need to be in the business of doing so. We really should be allowing doctors to do their jobs.

S. MILLER: Mr. Speaker and members, this amendment by Representative Farrar actually allows the doctors to ignore the entire bill, which would gut the bill. So, I'm regretfully going to have to move to table this one, also.

FARRAR: Mr. Speaker, members, I just don't believe that this legislature should insert itself in the relationship between the doctor and a patient. That relationship is a sacred one. A patient needs to be able to tell their doctor anything because that information is important to their treatment, to their lives, to their future health. And so, this, I believe, the coercive effort of this bill inserts politicians where doctors should be. And I don't want to jeopardize that relationship. And that's why I'm asking you to vote against the motion to table, to preserve the sacredness of that doctor-patient relationship.

[Amendment No. 24 was tabled by Record No. 83.]

[Amendment No. 25 by S. Miller was laid before the house.]

S. MILLER: Mr. Speaker and members, this amendment is a perfecting amendment to the severability clause, it's acceptable to the author, and I move passage.

FARRAR: Is this your severability amendment?

S. MILLER: Yes, it is.

FARRAR: Okay. I have some questions about that. Why are you asking for a severability amendment? Do you think there might be some constitutional issues with this bill?

S. MILLER: Twenty-one other states have had some form of legal challenge. And what this does, especially with the freshman members that aren't familiar with, if there is any portion of this bill that has a legal challenge in court, and it's determined that it is overruled by the court, what this does, it says it only affects that portion of the bill and the remainder of the bill will stay intact.

FARRAR: So, you're basically telling federal courts what to do? You don't think they're going to analyze it anyway?

S. MILLER: No, we're not telling the courts what to do. We are just saying, whatever they rule on it, the rest of the bill is not affected by their ruling.

FARRAR: So, you do have some concerns, then, about—perhaps, there might be some—the courts might find that there might be some undue burdens here?

S. MILLER: Actually, I really don't have any concerns. But it's just kind of like putting on your belt and suspenders, too. I want to cover all aspects.

FARRAR: Right. It's just curious, though. It doesn't seem to me that the clause would do a whole lot, because the federal courts are going to do what they are going to do, they supersede us. I'm just concerned about—do you think that maybe making the two trips for a woman to receive an abortion, do you think that might be burdensome, or the fact that she can't really opt out of having the procedure, or that she has to hear these things and can't really get away, or that the fact that the sonogram makes her abortion procedure more expensive, or that the amendment—there was an amendment to be offered that bars her own doctor from complying with this legislation? So, I mean, do you think any of those items might make this more burdensome and therefore not hold constitutional muster?

S. MILLER: Actually, we spent a lot of time going over just what you described. Of all the lawsuits that were brought in the other cases, across the other states that have sonograms bills, none of those lawsuits, particularly the ones that were sustained or upheld, are in this bill. I believe that we have a one hundred percent clean bill.

FARRAR: Well, then, why do you need a severability clause?

S. MILLER: Just in case. Like I said before, I want to cover all angles.

FARRAR: Well, it just alerted me to the fact that you might have some doubts about it.

S. MILLER: This may shock you, but sometimes I have made a mistake. This is just kind of to cover myself.

FARRAR: Hold on, I got to hold myself up here.

[Amendment No. 25 was adopted.]

[Amendment No. 26 by Hughes was laid before the house.].

REPRESENTATIVE HUGHES: Members, this amendment is pretty straightforward. The crux of the bill is on page 4 and it sets out the purposes of the act. It really encapsulates what we have been debating today. It says this, "the purposes of the act are: to protect the physical and the psychological health and well-being of pregnant women. To provide pregnant women access to information that would allow a pregnant woman to consider the impact of an abortion would have on the pregnant woman's fetus and protect the integrity and ethical standards of the medical profession." Not unusual for us to put background and purpose findings in a bill because, as we know, when bills are reviewed from time to time, we'd like to think that courts would consider our legislative intent as expressed here at the microphone, even when it's placed in the journal. But, many times they don't. And so, this amendment makes sure that our intent is made clear in the text of the bill itself. That's the purpose of the bill. It's acceptable to the author, and I'll, of course, yield to my friend.

FARRAR: You had a couple of amendments. Is this your severability amendment?

HUGHES: Severability is at the end of this amendment. It builds on what Chairman Miller was just talking about that. There is a severability clause in this, as well as going through background and purpose for the bill itself. Yes.

FARRAR: It looks like a legal treatise. I mean, what is the purpose, or what is the difference, or how do the two amendments work together since they're both probably going to go on the bill?

HUGHES: This amendment, as far as a legal treatise, it talks about the supreme court law on access to abortion and what the supreme court has said states can and should do. It goes over each of the current cases and road maps them and makes clear what we're doing in this bill is what is allowed by the supreme court. That's really what this is about. And as far as the severability clause, as Chairman Miller mentioned before, we believe this is a constitutionally sound bill, but you never know what a court is going to do. So, should a court see fit to strike down one portion of the bill it wouldn't hurt the rest of the bill. That's basically what we're doing here, or trying to do.

FARRAR: Well, I just wonder why you're doing this because, I mean, it just seems maybe you think you're on shaky ground because perhaps women's rights, constitutional rights, might be violated. Why would you have to go to such extreme explanations? I've just never seen anything like this in legislation. Why would you be quoting verse and chapter of cases? And, quite frankly, I mean, it doesn't seem that the statute itself holds up any of the quotes that are mentioned.

HUGHES: Well, it's not terribly uncommon for us to have background and purpose findings in a statute. It's in the Education Code, Alcoholic Beverage Code, all over the Health and Safety Code. There's actually a few bills on file this session that do this. It puts findings and background and purpose. Because,

as you know, when bills are challenged in court, sometimes the courts don't listen to what you and I have said about it, but they look at what is in the bill itself.

FARRAR: So, you're building a defense, basically?

HUGHES: We want to make sure our intent is clear. If any judge has any questions about it, they won't be able to second guess. Or, worst yet, I know you and I would both be unhappy if the judge were to substitute their own judgment for ours as to what our intent was. So, that's really what we're doing.

FARRAR: Well, we ask judges to uphold the constitutionality, and this body doesn't always pass constitutional measures. It is not unheard of in our history to have—to have done some bad stuff. So, I just find it curious that we would be—that you'd be having to shore up your defenses on something like this, and the other thing is, I think it does only go to intent, perhaps, because the federal courts are going to do whatever the federal courts are going to do.

HUGHES: Well, the judges are going to do what the judges want to do. We just want to make sure we give them all the information they need to honor the intent of the legislature as expressed here according to the constitution.

FARRAR: Are you concerned that there might be undue burdens placed on women by this bill?

HUGHES: No, I'm not. In fact, if you look at some of the language here quoted from, for example, *Planned Parenthood v. Casey* opinion, it says most women considering an abortion would deem the impact on the fetus relevant, if not dispositive, to her decision.

FARRAR: I don't doubt, you've gone a great job of cutting and pasting verbiage from different opinions.

HUGHES: Well, thank you.

FARRAR: Well, I'd do the same thing. But you know, it does just point to one thing and it doesn't look at the whole picture of what the case was about. So, you've done a great job of putting together language that basically suits the purpose of this bill. But I do have concerns about undue burdens on women, and the ones that I laid out to Mr. Miller just a moment ago.

HUGHES: And I understand that. And that's expressing our debate. And whatever final bill is passed, we just want to make sure that it reflects what we've talked about here. So, I do appreciate your position.

FARRAR: Let me ask you this, I want to ask Mr. Miller this, as well. We were talking earlier about psychological effects of women, and this is where I think this bill might run into some trouble. Women will have to see, hear images that will affect them one way or the other. And my concern is that the concern of the bill only seems to be that of the woman who would carry through her pregnancy, but the concern is not on the woman who has already made her decision and still has to undergo this procedure and go through the hearing and, very—well, a very painful process for her. So, it seems to be that the bill makes a distinction between the two types of women. It has concerns for the woman who will carry

through her pregnancy, but not so much the woman who has decided to have an abortion.

HUGHES: I don't doubt, and I think we learned from testimony in the committee, that there are women who begin this process having made up their minds, and after viewing all the information, make a different choice. Of course, the woman has that right. We want to make sure it's an informed choice.

MARTINEZ FISCHER: Representative Hughes, I was just curious, as a member of the committee, why didn't you add those background and purpose facts back at the committee level?

HUGHES: I am not a member of the committee.

MARTINEZ FISCHER: You're not a member of the committee?

HUGHES: No, sir.

MARTINEZ FISCHER: And so, how is it that you are in a position to state what the background and purpose is, if you weren't a member of the committee?

HUGHES: Well, this, of course, is a proposed amendment. This body will decide whether I'm in a position to do that. If we adopt this amendment, then we'll know the answer to that. I think, based on the debate we've heard and the issues we've talked about, this is very consistent with the bill's intent.

MARTINEZ FISCHER: Well, I respect your opinion, but I think I heard you lay out earlier that this is like a background and purpose. And so, if I heard wrong, then I apologize. But if you said that, I don't know how you can effectively say that if you weren't part of the committee process and part of the committee deliberations. And so I don't want to send a false impression that that amendment represents the mood of the committee and those would have been the proposed findings and the background and purpose of the committee unless, of course, that's what the committee wanted to do. And since it didn't come out of the committee like that I have to assume that it was neither thought of or, you know, more importantly, even something they wanted to be part of the bill.

HUGHES: If this amendment becomes part of the bill, it will be an expression of this entire body's background and purpose for this act. It will become part of the statute and we, as the house, the members of the committee, and all the rest of us will be expressing our will. And that's how the system works. You know that.

MARTINEZ FISCHER: Right. And so, but we as a body accepting that, we're not going to supplant our judgment for that of the committee, we can't do that, I can't do that, you can't do that; can you?

HUGHES: What's the question?

MARTINEZ FISCHER: The question is: when you say we, if we may adopt this as a body as a statement of our belief and what this background and purpose is, but you're not suggesting that we could supplant our judgment for the committee's judgment. We're not doing this at the request of the committee, we're doing this in lieu of the committee, correct?

HUGHES: Representative, it would be no different from you asking the author of the bill questions of legislative intent, and those being reduced to writing and placed in the journal. That's the author's impression based on your questions. That intent can be placed in the journal. Of course, you can look at that, we want to make it stronger by putting it in the statute itself.

MARTINEZ FISCHER: Okay and—

HUGHES: I know, that you, like I, have been frustrated when courts have ignored legislative intent.

MARTINEZ FISCHER: Well, I—

HUGHES: This is to avoid that from happening.

MARTINEZ FISCHER: Well, I sort of subscribe to the separation of powers. And I recognize that we have the ability to act right now, but they have the ultimate decision when they interpret our acts. But I don't see in your amendment anywhere, where it even dictates or suggests that this is the intention of the legislature. I mean, I'm looking at it, it says the legislature is making these findings and I didn't realize that we made findings in statute.

HUGHES: As a matter of fact, you can look at Section 29.302 of the Education Code where the legislature finds that it is essential for the well-being and growth of students who are deaf or hard-of-hearing that educational programs recognize the nature of deafness and of hard-of-hearing conditions and ensure that all students that are deaf or hard-of-hearing have appropriate, ongoing, and fully accessible educational opportunities. We could go to the to the Health and Safety Code, Chapter 32, Chapter 85, 257, 361 and on and on. We could go to the Alcoholic Beverage Code. There are two–there are three pages in Section 6.03 of background, legislative intent.

MARTINEZ FISCHER: I appreciate it. Would you just help me understand that if these are proposed findings, can you explain to me how we found, on page 4, line 18, how this bill protects the physical and psychological health and well being of a pregnant woman?

HUGHES: I would say that's based on the testimony that was heard in committee, as you described, and based on comments made by the author and other members from this podium and the back mic about how women testified before the committee that they wanted all the information before making this decision.

MARTINEZ FISCHER: Okay. And that, that will speak to their physical and psychological health and well being?

HUGHES: That would certainly be a part of it. And it's about informed consent, women having all the facts before they make this big, big decision.

MARTINEZ FISCHER: I'd like to have the exchange of Representative Hughes and myself be reduced to writing and put in the journal as an expression of legislative intent as to what committee witnesses testified to as to their physical and psychological health and well being of a pregnant woman.

[Amendment No. 26 was adopted.]

[Amendment No. 27 by P. King was laid before the house.]

REPRESENTATIVE P. KING: Members, this is one of those amendments I know everybody will just unanimously support. All it does is require that there be an annual audit by the state health services to ensure compliance with this bill, should it pass. And it is acceptable to the author. Move adoption.

TURNER: Representative King, an annual audit of the facilities?

P. KING: As you know, the code already requires the department to go in and audit pursuant to Chapter 171, which is the—to make sure that the abortion facilities are in compliance with their permitting restrictions. They already do that. This adds the requirement that when they do those audits, they also do audit for compliance, records keeping, and such with this bill, should it pass. Now, to clarify, the current statute for Chapter 171 says "may." However, the rules, Section 139.31(b)1 of the Texas Administration Code, the department has adopted an annual audit. So they already do that. This does change the "may" to "shall." But that's something they already do and it simply says that while they're auditing for the abortion facility for the other requirements they will also audit it to make sure that they are in compliance with the requirements of this legislation.

TURNER: And a few questions.

P.KING: Yes.

TURNER: Who is conducting the audits?

P. KING: State Health Services.

TURNER: And the cost associated with that?

P. KING: Well, where it came to my attention—you may have met with her as well, Abby Johnson who ran an abortion clinic for Planned Parenthood in Bryan; I met and had dinner with her a couple of weeks ago, and she stressed to me how important it was for those audits to come to those clinics to make sure that there is complete compliance. And I could give you a lot of examples that she gave me. In fact, it was very disturbing that the efforts that were made to circumvent those audits. But she convinced me it was exceptionally important and so I just want to make sure while they're auditing already that they also audit for compliance with this statute.

TURNER: And the costs associated with that?

P. KING: Cost? There will not be a cost because they already go in to audit now. This would just say they would also check these records while they are there.

TURNER: But under the existing status quo it says that they "may," that doesn't necessarily imply that they will.

P. KING: And that's correct. Except that, as I mentioned, the Texas Administrative Health Code has already made the "may" a "shall," In other words they, the department, in its rulemaking authority, has already set up for annual audits.

TURNER: How many audits are you anticipating under your amendment?

P. KING: One per year.

TURNER: How many audits will that be on an annual basis?

P. KING: However many licensed abortion facilities there are in the State of Texas. I think somebody told me there's 73. But that may be off.

TURNER: 73 facilities?

P. KING: 73 abortion facilities that are licensed as abortion facilities. Don't hold me to that number please, Mr. Speaker. But, however many audits are conducted today, the same number of audits will be conducted if this amendment is adopted. It is just that they will expand the scope of the audit to include the double check of the record keeping compliance that's required under this statute.

TURNER: Right. And because it is a "shall" instead of a "may," there is a cost associated to this amendment. The only reason I'm asking, the bill analysis says there's no cost associated with **HB 15**, and if we're going to be adding amendments that are going to be adding costs, then I think this bill needs to go back in order for a fiscal analysis to be placed on this bill. Because, to me, it is unfair to the members of this body to adopt any amendment to this bill that adds cost to this bill contrary to the fiscal note attached. So is it your representation that your amendment does not at all cost this bill?

P. KING: It is my opinion that it does not add any cost to the State of Texas.

TURNER: And if by chance, overnight, for example, if the comptroller should place a cost on your amendment, will you agree to withdraw your amendment from **HB 15**?

P. KING: I would have to think about that. I just don't anticipate that happening.

TURNER: Well, I think until you think about it, I think you need to withdraw the amendment. You can't have it both ways.

P. KING: In my opinion, and based on the research that we've had and the discussions that we've had in pursuing this amendment, it will have no cost impact.

TURNER: And I'm with you on that. The only thing that I'm saying is that once we send your amendment to the comptroller and—or whomever, and if there's a cost attached to the amendment, will you agree to withdraw your amendment from **HB 15**?

P. KING: I would consider, if that were the case, which I don't think it will be. If that were the case, I would consider changing it from "shall" to "may," only because they're going to do it already, because it's already required under the rules of the agency. It is, in effect, already a "shall."

TURNER: The only concern that I'm having with any amendments that add any potential cost is that eventually we're going to be making some very critical decisions as it relates to the appropriations bill. And in **HB 15** we are providing a sonogram to mothers. But in a few weeks we may be denying Pampers to mothers of these very same children. And so the concern that I have is with cost. Let me ask—let me go to another issue. Does your amendment at all violate any of the HIPAA rules?

P. KING: I'm sorry?

TURNER: The rules that require the privacy of these records, the privacy of a patient's records, does your amendment violate any of the privacy rules?

P. KING: Not to my knowledge.

TURNER: Okay. Because I think we're getting—I think once you start getting into audits, and because **HB 15** requires that these records be maintained for seven years, and these are very personal records. And now, we're having these outside people coming in and conducting these audits and looking at people's records, I think we're getting very, very close to violating people's privacy rights. And **HB 15** may be very well intended but I think at some point government is becoming highly intrusive into the personal lives and the personal medical records of the individuals involved.

P. KING: If—I would be happy to work with you in working with the agency to ensure that their internal regulations protect HIPAA at all levels in their audits. And I would be happy to work with you towards that, with the agency.

TURNER: Well, I'm just concerned, Phil, and I know you're sensitive to it that the eyes of big government are now all over the place with **HB 15**. And not only are we imposing the sonograms on women, but now we are having outside auditors from state governmental agencies looking at the medical records of people, of women, and others in the State of Texas. I know that has to be a concern.

P. KING: And I feel I have the highest level of confidence that they have been doing audits up to this point on those abortion facilities looking to see if, for example, a parental consent was signed or parental notice provisions were made. And I have heard no complaints of or no concerns that the audits were violating HIPAA or any other privacy concerns. And so I'm just going to trust that the agency will continue to act with great restraint in that regard.

TURNER: Well I don't know why we should trust the agency on **HB 15** when we question the—and we don't trust the agency in respect to so many other issues. To me there's a disconnect. But in **HB 15** government is all—all included in the lives of women and families. And this is another intrusion by government into the lives of families in the State of Texas. But I—but please take a look and see whether or not there's a cost.

TURNER: Point of inquiry, Mr. Speaker?

CHAIR (Representative Brown in the chair): Representative Turner, for what purpose?

TURNER: Point of inquiry.

CHAIR: Representative Turner, state your inquiry.

TURNER: Is there a rule in the Texas House on a fiscal note of any bill or amendment that comes to the floor of the house?

CHAIR: There are rules on fiscal notes on bills that are attached that come to the house.

TURNER: And what is the effect of any amendment on any bill that comes to the floor of the house with a fiscal note? Or that has a fiscal note or may impose a fiscal cost?

CHAIR: There is no rule regarding an amendment being presented on the house floor for the first time to contain a fiscal note.

TURNER: So, point of inquiry, Mr. Speaker.

CHAIR: State your inquiry.

TURNER: So we are free to bring amendments to the floor that may carry fiscal notes or may have fiscal implications upon the State of Texas? And if that's the case, that's fine. I just want to make sure I know what the rules are.

CHAIR: In some cases—in some cases for instance, the calendar rules for the appropriations, there are requirements that amendments financially balance. There are special requirements for bills that expend money within set deadlines, especially before the General Appropriations Act is passed. There is no requirement in our rules, absent the calendar rule or some other special rule adopted by the house, that an amendment filed on the floor contain a fiscal note.

TURNER: Then I think, Mr. Speaker, it is very important that—well. Very well. I'm going to—I think I understood that, saying there is no prohibition against any amendment coming to the floor, other the Appropriations Bill, that may carry a fiscal implication.

CHAIR: Representative Turner, the parliamentarian will be more than happy to visit with you regarding this if you'd like to come down here.

TURNER: Fair enough. I'm fine. Thank you.

VILLARREAL: Mr. Speaker, parliamentary inquiry?

CHAIR: State you inquiry.

VILLARREAL: The gentlemen described his intent to not create a fiscal note on this bill. Is it—are we not able to amend his amendment with the provision that says this clause does not go into effect if it creates a negative fiscal note, if it costs the bill?

CHAIR: Members are always free to submit amendments. Bring your amendment down front.

VILLARREAL: Thank you.

OTTO: Mr. Speaker, parliamentary inquiry?

CHAIR: State you inquiry.

REPRESENTATIVE OTTO: If any bill passes this body and it has a fiscal note, but is not appropriated for in the general budget, would that item then still be in effect or if is it not appropriated it would have no effect?

CHAIR: Mr. Otto, that question made our heads hurt, okay? Could you bring your point of order down here, please?

[Amendment No. 28 by Anchia to Amendment No. 27 by P. King was laid before the house.]

ANCHIA: Thank you Mr. Speaker, members, I have an amendment that—it frequently goes on in the senate. It's affectionately termed in the senate the "Ogden Amendment." It says if there's an appropriation that is created by any part of this bill, and no appropriation is made by this body, then the act does not take effect. It's as simple as that. Senator Ogden puts it on every bill as chair of senate finance. And I think it would be prudent for us to do it here because of these tight budget times and the difficult budget bill that we have looming ahead.

REPRESENTATIVE MADDEN: Is it the tradition of the house that we always follow the acts of what the senate does?

ANCHIA: No, we typically don't. But in this case I think it's especially prudent, Mr. Chairman, we are facing very difficult budget times and if we get in the habit over here in the house of being fiscally undisciplined and loading up bills with amendments that aren't paid for, I think that's bad policy and bad practice.

MADDEN: Well, I promised only one question, but I'm going to make it two. Did your amendment say that with the act is not—

ANCHIA: That's correct.

MADDEN:—not put into place?

ANCHIA: That's correct.

MADDEN: Are you basically trying to kill the bill?

ANCHIA: No. We're just asking that you don't load the bill up with unfunded amendments.

MADDEN: Thank you.

ANCHIA: If the amendment isn't funded then the bill—then there's—the bill doesn't take effect.

VILLARREAL: So what you're attempting to do is cure the problem that this amendment creates, potentially. And that is it expands the scope of an existing audit and instead of allowing it to be voluntary, it's mandatory?

ANCHIA: Look, Representative King came up here and said he doesn't have a fiscal note. There's no fiscal note on the bill based on some "research" that he's done, this doesn't add anything, any cost to the bill. But we don't know that. So,

in an abundance of caution, and in order to be—in order to be disciplined on this house floor, as a matter of practice if this thing loads up, if this amendment loads up the bill with costs and it's not appropriated by Chairman Pitts and the Appropriations Committee then it should be the practice of this house that the bill not take affect. It's that simple.

VILLAREAL: Representative Anchia, thank you for bringing this fix. I think it makes sense that this bill came to the house floor without a fiscal note, this ensures that this amendment, nor any other amendment, expand the cost of government.

ANCHIA: Thank you. Move adoption.

P. KING: Members, the way this amendment is written, it applies to the entire bill. And the impact will be if this amendment to the amendment is added, that in effect, that all the work we've done here today will be for moot, because the bill will not ever be able to go into effect unless we somehow determine what the cost of this would be to the state and there be a specific appropriation made for it. I think the effort has been with committee substitute to **HB 15** that this not have a significant cost on the state. But, basically, this amendment to this amendment would not only impact this amendment, but it would say that unless we make appropriations of some unspecified amount that **HB 15** will not go into effect.

TURNER: Representative King, the amendment simply says that if there's a cost associated with the amendment, that the amendment doesn't go. That's all it says.

P. KING: No, sir, it doesn't. It says this act does not make an appropriation. The act being the bill.

TURNER: That is correct.

P. KING: And it says, "as amended by this act only takes effect only if this appropriation for the implementation of that provision is provided in a General Appropriations Act of the 82nd Legislature".

TURNER: And that's correct.

P. KING: I asked the author his intent and he said his intent was for this to apply to the entire bill.

TURNER: Correct. And the fiscal note that's attached to the bill says there is no fiscal note. And if there is no fiscal note then there's no need for an appropriation.

P. KING: But we do not know what the final bill is going to look like.

TURNER: Well, wait a minute, but you can't have it both ways.

P. KING: Oh, yes, you can.

TURNER: Oh, no you can't.

P. KING: Yes, you can.

TURNER: Not if you're going to be physically conservative and transparent you can't. You can't have it both ways if there's no—

P. KING: If an amendment is added on that has any fiscal cost to it at any point in this process, including in a conference committee or whatever, it would have the effect of killing the entire bill.

TURNER: If the author of the amendment and the author of the bill is representing to the Texas House and the people of the State of Texas that there is no cost associated, then there is no problem with this amendment.

P. KING: But there is none right now, but that doesn't mean there won't be on third reading or in conference committee or in whatever the senate does to it, if the senate ever takes it up. If we add something later, it's going to have the impact or have the risk of killing all this fine work that we've done today.

TURNER: Representative King, time and time again people come to the floor and we say we are fiscally conservative and we are transparent. The fiscal note attached to the bill and what you have represented in your amendment says there is no cost associated to it. If what you represent is true, there is no need for an appropriation. There's no need for an appropriation.

P. KING: Again, we don't know what the final bill is going to look like. There are other amendments pending. There is potential for third reading amendments, there's conference committee changes, there's things that are going to happen in the house before the conference committee. And, ultimately, if any costs—and, plus, Mr. Speaker, you know as well as I do that every bill, even if it's just the printing costs that go by what we are required to do has some argument that there's fiscal implications.

TURNER: And Representative King, you know what we call that? We call that "creeping". We call that "creeping". And people have spoken against "creeping" costs. Okay? People have said they don't want government to engage in cost that keeps going up and up and up. Now, if the rule of the day is that if it's something that you like it's okay to place a cost on it, I got that. I'm okay. I'm okay with that. I'm okay. But let's not argue that we're going to be fiscally conservative and transparent when we are not willing to accept amendments that say that if there is a cost associated with it and no appropriation made, it should not go anywhere. That's the only thing that I'm saying. That's the only thing I'm saying. And, again, if you're representing that the amendment has no cost, the amendment is a good one. If it's a possibility that the amendment has cost, I will agree with you, if I were the author I would not accept the amendment, either.

P. KING: I'll move to table.

TURNER: And I understand.

P. KING: Mr. Speaker, I move to table the amendment to the amendment.

ANCHIA: I love Representative King having to argue against fiscal responsibility. The bottom line is the representative can pull his amendment down if he's concerned that it creates a cost to the bill, and then this amendment to the amendment is not necessary. The other thing that's interesting about this is

that the Senate has this very amendment put on by Senator Watson and Senator Ogden. If this bill has a cost, it needs to be funded in the Appropriations Bill. If it is not funded in the Appropriations Bill, the act does not take effect. So there are two simple remedies here. Representative King can pull down his amendment, right? Which is changing a "may" to a "shall" and clearly putting costs on this bill, even though he says there's no cost to it. Doesn't sound like he's confident with that. Or, you can put this amendment on and just fund it in the Appropriations Bill.

VILLARREAL: Mr. Speaker—

ANCHIA: And that's all you need to do. There are two easy fixes to this. But the practice that we're engaging in—the bottom line is, this is bad practice during a very difficult budget year of not being sure if we're adding costs to a bill, whether it's this bill or any bill. And I suspect we should be having this discussion on every bill. That if it's not appropriated for in the Appropriations Bill, it doesn't pass. Simple as that. So I know that my conservative colleagues who are fiscally responsible understand the impact of that and don't want to look like hypocrites on this house floor, and will be supporting or will be voting against the motion to table. Thank you, members.

VILLARREAL: I just want to clarify something. I actually thought I heard you two debate that this would bring down the whole bill. And we already know the bill does not have a fiscal note. And the first line in your amendment just restates the obvious, right? That the act does not make an appropriation. And then the rest of your amendment actually—or the rest of your amendment to the amendment only focuses on Section 245.006 of the Health and Safety Code, which is still Representative King's amendment. And so it says Representative King's amendment, as amended by this act, takes effect only if a specific appropriation for the implementation of that provision is provided. And so you really aren't bringing down the whole bill as represented by Representative King, you're only focused on his amendment?

ANCHIA: The principle here is that we should be disciplined about loading up bills with possible costs and fiscal notes. And if it is either a section, or the entire bill, the principle should remain the same, okay? If you're not sure, as Mr. King is not sure in this case, he thinks it won't add a cost to the bill, which is fine. And if it doesn't, there's no need. But if it does had a cost to the bill we need to have an appropriation for it. Bottom line, that's the principle, and I hope we are principled in our votes. Thank you.

[Amendment No. 28 to Amendment No. 27 was tabled by Record No. 84.]

[Amendment No. 29 by Castro to Amendment No. 27 by P. King was laid before the house.]

CASTRO: Mr. Speaker, members, I know that Representative King's amendment has us doing inspections and I can respect that. And so my amendment, what it would do is ensure that the facility has taken appropriate measures to ensure that persons visiting the facility receive appropriate protection to access the facility. Now, I know that the legislation that we focused on today emphasizes what goes

on inside the clinic, but I know that all of you are also concerned not only that we have safety inside the facility, but also we're concerned about what happens outside the facility. We want to make sure that these folks, that these mothers with their children in their bellies are safe when they go into the clinics. We know that people have been threatened, people have been harassed, that there have been instances of violence at abortion facilities. And I know that we all want to make sure that nobody is harmed. And since we're going to be doing inspections, we can also make sure that these providers are taking the necessary steps to ensure that everybody is safe as they access the facility. So, with that, I would ask you—I would ask the author to accept this amendment and I would move adoption.

P. KING: Thank you Mr. Speaker, members, although I share with Representative Castro the concern over the safety of anyone at a clinic, and—I was a policeman for 15 years, so those issues are certainly always on my mind, too. But I think what this is going to do is the clinics are not required under this bill, or anywhere else in law that I'm aware of, to provide security. I am concerned that this will establish a financial requirement for the clinics to provide security. And, if that occurs, someone's going to end up making an argument that that adds to the cost of the services provided at the abortion center. And that's going to be—run the risk of it being considered an undue burden and we'll have its impact of placing the bill, the new legislation at risk. And now, I'll yield at this time.

CASTRO: Representative King, a few things. First did you vote for the Women's Right to Know legislation?

P. KING: Yes, I did.

CASTRO: Didn't that impose a sonogram requirement on the clinics? Was that not a cost that was imposed on the clinics?

P. KING: It was, yes.

CASTRO: How is this different?

P. KING: Well, I think this bill has been about the sonogram issue and about—

CASTRO: So you're not concerned that if a woman is carrying a child in her stomach is threatened or beat up or assaulted outside of the clinic that you want to make sure everything is okay once she gets inside?

P. KING: Well, I think that I might support you on an separate piece of legislation where we had time to work through the fiscal cost to provide security at clinics. But anyone—

CASTRO: I got a chance—

P. KING: However, this bill today has nothing to do with providing law enforcement officers or security guards or things of that nature at an abortion clinic.

CASTRO: But that's not what the amendment says. The amendment simply says that the facilities be inspected to make sure that they're safe in terms of access to the facility.

P. KING: That's my point, there's no requirement in the law to—

CASTRO: It doesn't.

P. KING: —say. Therefore, how can you have an inspection with no statute that you're enforcing?

CASTRO: So you have no concern that these places are safe?

P. KING: I have absolute concern that these places are safe. In fact, that's why—well, I won't go to that but the—the—there is—this requires an audit to ensure compliance with the record keeping requirements and other requirements of this bill.

CASTRO: But Representative—

P. KING: You're adding an inspection to determine if the facilities have safe fencing and lighting outside at night and that type of thing, which is totally out of the scope and intent of anything to do with this legislation.

CASTRO: That's not correct. Why in the world would you be more concerned about record keeping than the safety of an unborn child of a mother walking into an abortion facility? Why in the world would you be concerned with a file more than a mother and an unborn child?

P. KING: You know, you know, I'm absolutely, totally concerned with those issues. But they're not part of this legislation. And, in fact, if you want to put together some legislation to require security and other things, I would probably work on that with you.

CASTRO: But if they're not part of this legislation, that's what this amendment to the amendment is for. I believe we got a germaneness ruling from the parliamentarian who said that this amendment to the amendment was fine.

P. KING: Well, I don't know if he said it was fine, he said—

CASTRO: Well, we can call it, if it is.

P. KING: Well, I haven't called a point of order on it.

CASTRO: What's that?

P. KING: I said I have not called a point of order on it.

CASTRO: Well, if you believe it's not germane, we can ask the parliamentarian.

P. KING: No, I think it's good, I don't think it's an appropriate amendment or a good idea for this legislation and that's why I'm going to oppose it.

CASTRO: Well, I'll speak—I guess my questions are done but I'll speak on the amendment.

P. KING: Would—yeah, I'll ask a question. I'll just ask right here.

CASTRO: Mr. Speaker , members, look, the fact is we are already going to do an audit, we're already going to do an inspection. Mr. King won on his amendment that said that the inspection was not going to cost anything, that there was no fiscal note to it. What I am simply asking is for us to be consistent. If we want to

make sure that this clinic is keeping proper records, that they're doing everything they're supposed to do under this chapter, then we also make sure that the women are safe. We also make sure that the unborn child is safe, not only when the woman goes in for the sonogram, but also when she takes the ten or fifteen steps from her car to the front door to go into the clinic. If we table this amendment, we're essentially saying that we don't care what happens outside that door. You don't care if she gets harassed, you don't care if she gets assaulted, you don't care if there's security there. You just don't care. Is that the kind of message we want to send to the people of Texas? I would ask for your support in this amendment, I think both because it's good public policy, but also because we are consistent in our policy, we care about what happens outside and inside that clinic. I move adoption.

[Amendment No. 29 to Amendment No. 27 was tabled by Record No. 85.]

P. KING: Members, thank you for listening to our discussion on it and I would move to adopt. I believe it's acceptable to the author.

[Amendment No. 27 was adopted.]

[Amendment No. 30 by Sheets was laid before the house.]

REPRESENTATIVE SHEETS: Thank you Mr. Speaker, ladies and gentlemen, I offer this amendment. I believe it's acceptable to the author. The purpose of this amendment is to clarify the language for medical emergency and to address some of the concerns members had earlier. I move for adoption.

[Amendment No. 30 was adopted.]

[Amendment No. 31 by Veasey was laid before the house.]

REPRESENTATIVE VEASEY: Members, this amendment is very simple. It says that the State Department of Health must—I'm sorry, the department may not include in the list a health care provider facility for a clinic that provides false, misleading or deceptive health information that a woman receives from a—from an abortion provider. I move passage.

S. MILLER: Mr. Speaker, members, I respectfully move to table.

VEASEY: Not exactly sure why Mr. Miller of Stephenville is moving to table this amendment, because all it says is that the State Health Department, when they go to these facilities, that these women are referred to, that these facilities cannot provide false or misleading or deceptive health information. Why would you want to send a woman somewhere where people or doctors or someone is going to tell them information that's absolutely false, that's a lie and is not true? We have to make sure the State Department only works with providers that will uphold the truth. That's all this amendment is, and I would love for Mr. Miller to maybe answer why this is not a good amendment but, to me, it's very simple.

FARRAR: We've heard time and time again today that this bill is about informed consent.

VEASEY: Yes.

FARRAR: Yet we're hearing now from the bill's author that it's not necessarily all of—we, you're just basically fortifying what he has said earlier, correct?

VEASEY: Absolutely.

FARRAR: And making sure that they don't receive information that's half truths or anything like that?

VEASEY: Absolutely, I think this amendment compliments this bill very well.

FARRAR: It's consistent with what you said throughout the day.

VEASEY: Absolutely.

FARRAR: This is about informing women, correct?

VEASEY: Absolutely. And I think that it would be unfortunate if the body were to vote yes on tabling this amendment when the author of the bill has given absolutely no reason as to why these providers should not provide the truth. I think that he needs to come up here and explain why this is a bad amendment or why it's okay for these providers to not tell the truth.

FARRAR: Right, if you're wanting—

VEASEY: I hope the membership would pay very close attention to this amendment.

FARRAR: If you're wanting women to receive all the information, then you would vote for your amendment?

VEASEY: Absolutely.

FARRAR: Thank you.

[Amendment No. 31 was tabled by Record No. 86.]

[Amendment No. 32 by Veasey was laid before the house.]

VEASEY: I think it's unfortunate that the body voted to table the amendment without fully knowing what it was about, just because the author asked everyone to—but, anyway, this amendment says that a health care provider, a facility or a clinic that is on the list that the State Health Department provides, must clearly inform the clinic—must clearly inform the client that the health care provider or facility clinic does not perform abortions or perform abortion related services. And must also disclose verbally and in writing, before providing the pregnancy test or counseling, exactly what the health care provider or facility is qualified to disclose and not. I move passage.

S. MILLER: Mr. Speaker and members, I'm going to move to table this motion. What this does is put many new burdens and restrictions on these nonprofits who are already running on a shoestring. So I believe that would unnecessarily burden them, so I move to table.

VEASEY: Once again, we want to make sure that women that go to these facilities that they may be referred to, that the truth is being told and that they understand exactly what these nonprofits and what—exactly what services they provide. Right now in some circumstances, not all, but in some circumstances,

people are being told absolutely false and misleading health information in regards to things about heart disease and cancer. And that is absolutely inappropriate, and we want to make sure that any bill that is passed out of this body, that the people that are on this list, that the State Health Department is approving, that no one is dishonest. So if you're for honest nonprofits then you want to vote with me on this. Thank you.

[Amendment No. 32 was tabled by Record No. 87.]

[Amendment No. 33 by Callegari was laid before the house.]

CALLEGARI: Members, this amendment requires the physician who is to perform the abortion to verbally inform the woman in a face-to-face private and confidential setting, of the information required. It is acceptable to the author. I move passage.

[Amendment No. 33 was adopted.]

[Amendment No. 34 by Eiland was laid before the house.]

REPRESENTATIVE EILAND: Mr. Speaker members, I have in my hands the last amendment for the night. And I think before I lay it out I would, I think that we should congratulate both Mr. Miller and this body for the way that they have conducted the debate today on such a matter so close to everyone's own hearts. So thank you, Mr. Miller, and members. And this is basically a floor substitute, it has many of the amendments that have already been voted down today, so I'm pretty confident about the result. But, bottom line, this changes the definition of medical emergency that was discussed earlier and takes it to mean a condition where there is—the clinical judgment, in the physician's good faith clinical judgment, complicates the medical condition and creates a serious risk of substantial impairment of a major bodily function. We talked about that earlier today. It moves it from a 24 to a 72-hour waiting period to a 2-hour waiting period and it provides specifically that the woman can refuse to listen, see, hear, etc. I do not believe that Mr. Miller's very clearly defines that the woman can refuse. And so this bill, which is the senate version, sets that out in very clear detail. And so, with that, I would move passage.

S. MILLER: Mr. Speaker and members, what we have before you in this amendment—actually it's not an amendment, it's a full substitute, it's an entire new bill. It mirrors the image that came over from the senate, which is a much weaker version which we have here. It rolls the 24, 72-hour period back to 2-hours. It does not require—under this substitute, it would allow the physicians to sedate and give anesthesia to the woman while he's describing the sonogram. I won't go through the whole details, but, for that reason, it really weakens our bill. It's not the bill that the house has worked so hard, so many hours yesterday and today to put together. So, respectfully, I'm going to move to table the Eiland amendment.

EILAND: I move, I move to close and vote no on the motion to the table.

[Amendment No. 34 was tabled by Record No. 87.]

MARTINEZ FISCHER: Members, I move to reconsider the Amendment No. 26 vote. That was the Brian Hughes amendment that had the legislative findings that we were debating. We didn't get an opportunity to have a record vote on it, and I don't think it will change the outcome, but we'd like to get a record vote on that. So I make the motion to reconsider Amendment 26, the Hughes amendment.

SPEAKER: Members, is there any objection to the motion by Representative Martinez Fischer to reconsider the vote on Amendment 26? There is objection. Representative Hughes will speak in favor of the motion.

HUGHES: This is, of course, the issue that we debated. There was no record vote. Representative Martinez Fischer's motion is purposely just for a record vote. So I don't oppose his motion to reconsider. We'll bring it up, I'll move adoption, and then we'll take a record vote. So I'm not opposed to his motion. I don't plan to debate it or discuss it. We're just taking a vote on it. I have no objection to his motion to reconsider this vote. And I'm going to vote aye.

[Amendment No. 26 by Hughes was laid before the house.]

HUGHES: Members, the amendment is acceptable to the author. Move adoption.

[Amendment No. 26 was adopted by Record No. 88.]

S. MILLER: Mr. Speaker and members, I appreciate your demeanor here on this very important bill. I know we've worked many long hours. This won't be the last day like this but I do appreciate your cooperation with that. I move passage of **CSHB 15**.

[**CSHB 15**, as amended, was passed to engrossment by Record No. 89.]